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House of Representatives

The House met at 9 a.m.

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

Eternal Father, strong to save, because You have revealed even in our days, the faith of our brothers and sisters, we give You thanks. Here in the House of Representatives, You have gathered those who have a unique love of Your people and a genuine care for their future. Your Divine Providence has brought them here. So now guide them as they complete the work of the 108th Congress.

May the deeper unity of this Nation arise above partisanship and the inner strength of America's goodness and gratitude emerge from its lament and self-centered nature to find authentic expression of heartfelt prayer on our national feast of Thanksgiving.

All of us, Lord, are truly grateful for the many blessings You bestow upon us as families and as a Nation.

We thank You, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. HASTINGS) come forward and lead the House in the Pledge of Allegiance.

Mr. HASTINGS of Florida led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to five 1-minute speeches on each side.

NOTICE

If the 108th Congress, 2d Session, adjourns sine die on or before November 20, 2004, a final issue of the Congressional Record for the 108th Congress, 2d Session, will be published on Monday, December 13, 2004, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 10. The final issue will be dated Monday, December 13, 2004, and will be delivered on Tuesday, December 14, 2004.

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ROBERT W. NEY, *Chairman.*

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ROGER BACON WINS DIVISION II STATE VOLLEYBALL CHAMPIONSHIP

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

Mr. CHABOT. Mr. Speaker, today I would like to take a moment to recognize the achievements of an exceptional high school volleyball team from my district, St. Bernard in Cincinnati, the Roger Bacon Lady Spartans.

On November 13, Roger Bacon defeated Millersburg West Holmes to capture Ohio's Division II State volley ball championship. The Lady Saprtans dominated the final match by winning three straight games, while also capping off the season with an impressive 27-game winning streak. This is an extraordinary accomplishment because Cincinnati has some tremendous high school girls volley ball teams, Mother Mercy and St. Ursula and Seton and Mt. Notre Dame and McCauley, just to name a few.

It is a great honor for me to recognize the success and achievements of these outstanding young women and their coach, Caryl Schawe, and the entire staff. Their hard work and dedication have made our entire community proud. Congratulations to Roger Bacon.

IN HONOR OF THOMAS M. FOGLIETTA

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, it is with great sadness that I rise to pay tribute to a former Member of this body, Tom Foglietta, who passed away so suddenly this week. Tommy was a gentleman, a diplomat, and a lovely and gracious man. We will miss him terribly.

At age 26 Tom Foglietta, as a Republican, Mr. Speaker, became the youngest person in the history of Philadelphia to be elected to the city council. He served there for nearly 20 years, devoted to the city he loved. In 1980, as a Democrat, Tom was elected to the Congress. I saw firsthand his values and his effectiveness as a member of the Committee on Appropriations where we developed a strong working relationship and a close friendship and took pride in our mutual respect for our Italian American heritage.

Tommy headed the Congressional Urban Caucus, promoted mass transit, and fought valiantly for the needs of Philadelphia, including the preservation of the Philadelphia Navy Yard. The entire country is in his debt for his relentless dedication to preserve and protect Philadelphia's Independence Hall, one of our Nation's sacred public places. In 1997 President Bill Clinton appointed Tom Foglietta to be the U.S. Ambassador to Italy, fulfilling a lifetime dream of his to serve his beloved America in his family's ancestoral home. Many of us heard him say over and over again that his grandparents came down the hill on a donkey in Italy to leave to go to America and he returned just two generations later as a U.S. Ambassador to Italy. It was in that role, in one simple act, that the world came to love and appreciate Tommy as we do.

Shortly after he arrived, a U.S. Marine fighter plane flying off course struck a cable car wire and killed 20 Italian skiers. There was great grief and outrage over this tragic event. The next day Tommy visited the site, knelt in the cold snow, and said a quiet heartfelt prayer for those who had lost their lives. That photograph of his prayer appeared in newspapers around the world presenting a human face of compassion for the United States. His act helped to difuse the public anger over the deaths and to convey the sincere apology of our country. Tommy did that spontaneously because he was a man of faith.

We expected no less of our Tommy. Quite simply, he was a good man we all loved to be around.

Tom Foglietta began his political career as a city councilman as a Republican, as I mentioned. He later ran for Congress and won as an Independent and then became a Democrat and remained so for the rest of his life.

But Tommy remained close to the people from all across the political spectrum, a testament to his appealing personality, his open mind, and his respect to each and every person in this body.

Mr. Speaker, I know that I speak for many here when I extend the condolences to Tommy's family and to the Pennsylvania delegation for this loss.

DR. CONDOLEEZZA RICE

(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, I rise today to applaud the nomination by President Bush of Dr. Condoleezza Rice to be the 66th United States Secretary of State.

Dr. Rice is an extraordinary American leader who has served our Nation admirably during a time of war. She fully understands the true nature of the terrorist threat against our Nation and has shown the strength and dignity that will be needed to work with our coalition partners in the global war on terrorism.

Dr. Rice, born in Birmingham, Alabama, has lived a remarkable life. A former professor and provost of Stanford University, she is a foreign affairs expert who served in President George H. W. Bush's administration. As the current national security adviser, she is also a respected author and renowned classical pianist. As President Bush announced, the Secretary of State is America's face to the world; and in Dr. Rice the world will see the strength, the grace, and the decency of our country.

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

SAVING THE ANAHEIM ANGELS

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, in 1965 my siblings and I used to play in the construction site of Anaheim Stadium. In 1966 the Angels played their first season in Anaheim, California. It took us from 1966 to 2 years ago to win a World Series, and boy were we proud of our Anaheim Angels.

Today I rise in strong support of the city of Anaheim in its quest to save the Anaheim Angels. The new owner wants to change the name to the Los Angeles Angels. The city of Anaheim does not want that. The fans of the Anaheim Angels do not want that. Even the City of Los Angeles does not want them named Los Angeles Angels. See, Anaheim is not Los Angeles.

So today I hope that Artie Moreno, the new owner, will realize that they are champions and they are the Anaheim Angels and they should remain the Anaheim Angels.

THE OIL-FOR-FOOD PROGRAM

(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, the amount of money Saddam Hussein socked away by subverting the U.N. Oil-for-Food program was $21.3 billion. Much of it is being used by terrorists in Iraq to this very day. After the Gulf War, the international community set about to make sure that the international community did not add to the suffering of the Iraqi people who already endured under Hussein. Unfortunately, officials at the U.N. and corporate executives conspired with the Iraqi dictator to create a complex web of patronage and bribery.

Mr. Speaker, we all know that Saddam Hussein was an evil dictator who encouraged terror and violence. However, the U.N.'s inability to enforce its own sanctions, 17 of them since 1991, has today been highlighted by its complicity in the suffering of the Iraqi people. There is no excuse. The U.N. must be reformed. Those responsible must be punished. The Oil-for-Food program is a symptom of a much larger problem, a lack of accountability and an absence of resolve.

OVERTIME

(Mr. EMANUEL asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, in today's New York Times we learned about Trudy LeBlue, an employee of a hair salon outside of New Orleans. Ms. LeBlue's story is like that of many hard-working Americans. While she struggles to make ends meet, her employer forces her to work off the clock just to avoid paying overtime.

Across this country American families are working toward a better life, yet find their climb getting tougher. Just this week we learned wholesale inflation is up 1.7 percent last month alone, the sharpest monthly increase in 15 years. Since 2001 health care costs are up by a third, college tuition costs up by 32 percent, personal bankruptcies up by 38 percent.

But what is the Congress doing to reduce the burdens on American families? A tax policy that has shifted the burden onto working families off of wealth, failed to pass a higher education legislation, failed to pass legislation on comprehensive health care or on energy policy. And just last night alone we voted to increase our Nation's debt to $8 trillion, a 40 percent increase in the past 4 years. This vote was a fitting end to this Congress's record on the economy and what it has done for working families. Rather than making the right choices, we pass the buck.

Mr. Speaker, the American people look to the Congress to solve their problems, not add to them. Yet more than often than not, the 108th Congress has chosen to pass our responsibilities on to future generations. Mr. Speaker, passing the buck is not leadership. It is a Ponzi scheme.

ACCUTANE

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

Mr. STUPAK. Mr. Speaker, Dr. Graham, medical review officer of the FDA, told the Senate that there are a number of drugs that should be pulled from the market. One of the drugs that should be pulled from the market is the drug Accutane. This devastating drug has crippled America for some time and its youth. Not only has Dr. Graham called for the pulling of Accutane, but Dr. Huene, one of the first medical review officers to look at Accutane when it first came on the market, found serious problems with Accutane and asked for help and was ignored by the FDA. Dr. O'Connell, who suggested severe restrictions of the use of the drug Accutane, again was ignored by the FDA management. Dr. Graham has now come out against this drug, again being ignored by FDA management.

Not only are these three medical review officers in the FDA calling for severe restrictions or pulling the drug from the market, but also the CDC backed in 1990 because of birth defects said this drug should be pulled from the market. The March of Dimes has said this drug should be severely restricted when used because of birth defects. Two FDA panels have come out and told the FDA, their own advisery panels, to severely restrict the use and distribution of this drug. Again they were ignored.

It is time we pulled this drug Accutane from the market.

HONORING TOM FOGLIETTA

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

Ms. DELAURO. Mr. Speaker, I rise to honor a former Member of this body and friend who passed away this week, someone who left a profound mark on his community, his Nation, and this institution. Whether it was his dedication to our friends in the international community or the working people in his own community, Tom Foglietta was special, a man with a common touch and high ideals. With Tom we always knew he was someone who would fight, who was with us to the end regardless of the odds or the politics of the matter. His fight to keep the Philadelphia Navy Yard open is legendary.

As I reflect on his time in the Congress, I remember a man who understood what it meant to bring the values of his constituents to Washington. A fellow Italian American, Tom and I often discussed how it was our parents' example serving on respective city councils, his in Philadelphia, mine in New Haven, that inspired us to enter a life of politics and give back to the communities that had given us so much.

Living out his lifelong dream as an ambassador to Italy, I will never forget how he knelt down in prayer for the victims in the Cavalese cable car tragedy, sending a powerful message to the world that America weeps for the sons and daughters of its allies as if they were our very own. In turn, the Italian people loved him as he loved them.

Throughout his career, whether it was his work in Italy, to secure the peace in Haiti, to forge a democracy in South Korea, Tom Foglietta understood that America's role in the world was rooted in moral leadership, in common values, humility and humanity.

I will miss so many things about our friendship, dinners with the gang, eating pasta with gravy, his cooking in my kitchen.

I will miss his friendship, his moral leadership. We all will. Grazi, Don Tomaso. His passion for people knew no bounds. For that he will forever be in our hearts.

TAX RELIEF AND FISCAL DISCIPLINE ARE COMPLEMENTARY, NOT CONFLICTING, OBJECTIVES

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

Ms. HARRIS. Mr. Speaker, as we enter a new Congress with the American people's mandate to extend tax relief and reduce the deficit, I wish to remind my colleagues of the following wisdom: ''Our true choice is not between tax reduction on the one hand and the avoidance of large Federal deficits on the other . . . It is a paradoxical truth that tax rates are far too high today and tax revenues are too low and the soundest way to raise the revenues in the long run is to cut rates now.''

□ 0915

Who articulated this simple but powerful case for the economic policies of this President and this Congress? Not George W. Bush. Not even Ronald Reagan. President John F. Kennedy made these remarks just a month and a half following the hottest moment of the Cold War, the Cuban Missile Crisis.

Kennedy and Reagan launched two of the longest economic boons in American history by cutting taxes. They also increased Federal revenues, more than double during the decade of President Kennedy's across-the-board tax cuts, and more than 75 percent over the 10 years following President Reagan's Economic Recovery Tax Act of 1981.

But from 1981 to 1991, Federal spending increased a whopping 95 percent. Thus, the deficit quadrupled because of runaway government spending, not because the American people got to keep more of their hard-earned money.

Once again, we have arrived at the moment of truth. This time, we cannot make excuses for the failure to restrain spending. This time, our philosophy of low taxes and limited government is on the line. This time, let us show the American people that tax relief and fiscal discipline are complementary, not conflicting objectives.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 859 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 859

Resolved, That it shall be in order at any time on the legislative day of Friday, November 19, 2004, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore (Mr. LAHOOD). 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.

This rule provides that suspensions will be in order at any time on the legislative day of Friday, November 19, 2004. It also provides that the Speaker or his designee will consult with the Minority Leader or her designee on any suspension considered under the rule.

Mr. Speaker, the Republican leadership of this House has sent out a positive legislative plan for this week and the balance of the 108th Congress on behalf of the American people. The goal of this plan is to clean up this Congress's legislative calendar by passing a number of bills before we adjourn that will improve America's economic and national security.

Over the past year, Congress has passed a number of important new education, trade, tax, and national security bills that will keep Americans safer, create new jobs, and improve our economy. Later today, and for the rest of the week, we will consider legislation to improve the Individuals with Disabilities Education Act and provide for consideration of outstanding spending measures to ensure that Congress can complete its work before we adjourn.

I understand that Members on either side of our aisle may have different views about how to address these issues, and we have had and will continue to have the opportunity to hear a great deal of debate from both sides not only on these issues but also on other issues that are important to this Nation.

However, some of this legislation that the Republican House leadership has also scheduled for consideration on behalf of America has broad support from Members of both the majority and the minority. And, in an attempt to make sure that this important work is finished by the end of the 108th Congress, we are here today to pass this rule to provide for consideration of these bills under rules that will require them to pass by a two-thirds majority.

This balanced rule provides the minority with the ability to consult with the Speaker on any suspension that is offered, ensuring that their input and views are duly considered before any legislation is considered under this rule brought to the floor today.

Mr. Speaker, I encourage my colleagues on both sides of the aisle to support this uncontroversial and balanced rule.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, as has already been explained, under Rule 15 of the House rules, bills may be considered under suspension of the rules only on Mondays and Tuesdays. The 108th Congress has approved the consideration of legislation under suspension of the rules on Wednesdays. Therefore, this resolution is required in order for the House to consider any bill under suspension of the rules today.

Let me be clear from the onset, Mr. Speaker. The first day of the session or last day of the session, it does not really matter. I and so many others in this body on both sides of the aisle have grave concerns about handling bills outside the normal parameters of the way the House should conduct its business. When the House does operate this way, it effectively curtails our rights and responsibilities as serious legislators. Frankly, Members should be very wary of allowing the leadership to usurp our rights.

I understand the circumstances and the end-of-the-session deadline of which the majority speaks, but their plan is for us to leave today or tomorrow without passing 11 of the 13 bare essential appropriations bills that each Congress is constitutionally mandated to pass into law. Shame on us.

We are planning on leaving today or tomorrow without passing a highway reauthorization bill, the only legislation this Congress would have considered that actually had the potential to create jobs. Shame on us.

We are planning on leaving today or tomorrow without passing comprehensive energy legislation. We are planning on leaving tomorrow or today without extending the child care tax credit to all working families. Shame on us.

We are planning on leaving today or tomorrow without increasing the minimum wage. Shame on us.

We are planning on leaving today while 44 million or more Americans remain uninsured. Shame on us.

We are planning on leaving today or tomorrow without extending unemployment benefits for 1.9 million Americans who lost their jobs during President Bush's first term in office. Shame on us.

We are planning on leaving tomorrow or today without doing anything to extend the solvency of Social Security. Shame on us.

Just yesterday, my friends in the majority voted to again raise the debt limit. They added billions and possibly trillions more to our national debt, leaving our children and grandchildren to pick up the tab for generations to come, and they call themselves the party of fiscal responsibility. Shame on them.

Footnote right there: Something that is not discussed in this body very much, nor was it discussed in the national debate that just concluded with President Bush and Senator KERRY, is the fact that the dollar around the world is troubled, to say the least, and that can have implications for the globe. Somewhere in all of this deficit-building, some of us are going to have to begin to do more than green-eyeshade talk in explaining to the American public the implications of the deficits that we are running on the currency that is the currency of the realm of the world.

For the last 2 years, the majority has been so busy trying to keep its job that it has not done its job. Shame on them.

The Republican leadership has also assured us that the Minority Leader will receive no less than 2 hours notice of any bill before it comes to the House floor. We expect that this assurance will be honored by the majority as well as previous agreements that have been reached between both sides of the aisle on the practices of considering legislation as a suspension. This includes the unwritten rule of not bringing controversial legislation to the floor under suspension of the rules.

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

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

Mr. Speaker, the American people understood exactly what the parties stood for, the accomplishments of those parties, and that is what the election was about. I am pleased today to be back in the United States Congress on the floor of the House of Representatives touting not the things that the gentleman from Florida talked about that did not get done but rather the things that did get done, accomplishments that occurred during this year.

I am very proud of the leadership of the gentleman from Illinois (Mr. HASTERT) our Speaker, and the gentleman from Texas (Mr. DELAY), and the gentlewoman from Ohio (Ms. PRYCE), and the gentleman from Missouri (Mr. BLUNT) who have provided this body with the leadership to ensure that the things that were done in the 108th Congress got done.

Mr. Speaker, I hold up 15 pages worth of bills, of accomplishments that this body was a part of. Mr. Speaker, this body was a part of making sure that we would answer the question about how Medicare would address the needs of senior citizens and low-income seniors, and we understood and we understand today that 95 percent of all of the money that is spent in Medicare is spent on major, critical, life-threatening issues that people have. We have changed that now to, instead of dealing with a person once they are sick, we are going to change that to preventative type of spending. That is what we believe Medicare should be doing. That is not something that we should be ashamed of. That is something we should be proud of.

We are proud that we will have in place this next year again, once again, for low-income seniors, the ability for this government to help them not have to make a decision in buying and receiving their prescription drugs. That is something I am proud of.

I am proud to know that we, once again, had a tax bill, a tax bill that would make sure that we become competitive with this marketplace. Mr. Speaker, when we cut taxes, business gets that money, and they do a bunch of things that are great for this country. They buy more equipment, they

employ more people, and we become competitive with the world.

I would say that Republicans have a different philosophy than Democrats. We believe that we should do a few things and do them well, and that is what this Republican Congress has done this year. We have not just rushed out and tried to tackle every single issue. We have done the things that will make a huge difference for the American public.

I believe that that is what this election was about, and I believe that this President stood before the American people and talked about what his policies had been and will be. I think they are accomplishments that I am proud of, I think that this body is proud of them, and I darn sure know that the American people turned out in record numbers to say thank you so much for the service to this great Nation.

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 rise only to engage my colleague in a colloquy. The gentleman from Texas (Mr. SESSIONS) says the words ''American people.'' Well, there are 55 million American people that probably have some differences with some of the things that the gentleman has discussed. Let me join my good friend in saying to him unequivocally that all of the things that he says that passed this body doubtless are good things from his point of view. But there are some that are not good things from other people's points of view.

Now, I would ask the gentleman a question: Did the President of the United States sign all 13 appropriations bills as is mandated in the United States Constitution to be done by this body by October 1 of each fiscal year? Did the President sign 13 appropriations measures? And answer the next question: How many did he sign?

□ 0930

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, I appreciate the gentleman from Florida engaging in this wonderful discussion. I have been here for 8 years. During those 8 years as a Member of Congress, I believe 5 of those years I have been here at Christmas time, the week of Christmas, doing the job that needed to be done.

I do understand that we do have these 13 spending bills that need to be done. I also recognize we have a process. The gentleman and I sit up late at night in the Committee on Rules attempting to work through those processes to make sure the President does get the needed legislation before him. But we have the underpinnings of the Constitution where we have two bodies, the Senate and the House. If we do our work, it does not mean they have to do their work. Likewise, if they do their work, it does not mean we have to. So we have to come to an agreement and those agreements sometimes take a little longer, but what we have avoided is shutting down the government.

The government has done its business. We have been very successful to make sure that we address those issues. So I would say that, well, yes, the President is supposed to sign those bills, but at least we have not gone home before he will get a chance to do that.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, I might comment that I thought perhaps my friend was on a talk show where one of the hosts asked him a question, and as is typical of us, we give nice long answers without specifically answering the question.

I just put out again for my friend that the President has signed two of the appropriation measures. We have been here, you and I, late into the year doing our work, and there have been other times when this has not been done pursuant to the Constitution. That does not make it right. Basically, what we have done, we have borrowed money from foreign investors in order that we might go about giving tax cuts, which ultimately will allow that we will pay greater interest on the deficit over a period of time, and your children and mine, and their children, are going to pay this debt.

Now, my colleague can name it anything he wants to, but we have a responsibility here in this body to pass those 13 appropriation measures. And the real reason we cannot pass them is because we have decided that we want to give tax cuts, and we cannot do the things that are necessary for highway transportation and child tax care; and I could go on and on.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman for his observations about our not being able to do the things that need to be done because of tax cuts. Mr. Speaker, there is a difference between our parties. One of the differences is taxing and spending. We, as Republicans, believe that if we give the American people back more of their own money that they earned that we will create a circumstance, an environment, an economy in this country that grows to where people become employed, we become competitive with the world, and we do the things ultimately to give people, the American public, more of their own money so they can live their own dreams and make their own dreams happen.

I do recognize we have a difference in our opinions. I do recognize that one party wants to tax and spend. I do understand that one party wants to give tax cuts and grow the economy. But at some point we also have to get our work done, and that is what we are trying to do today by saying that this rule is about allowing that necessary business when the minority leader, when the majority leader, and Speaker agree on legislation that can come to this floor.

We are waiting here for other business to be finished and done, but it does not mean we should shut off debate or for other very important legislation if there is complete bipartisan agreement about moving forward. So I am proud today once again to stand here before the American public and to say we are ready to do business here in the House of Representatives, and in a few minutes we will have more work that needs to be done.

We will handle legislation dealing with what is called IDEA, the Individuals With Disabilities Act, that deals with important education changes that have also been worked on and have bipartisan agreement that the gentleman and I heard about last night in the Committee on Rules.

So for us to say we are not doing our work, that we are a failure is simply not, I do not believe, a correct enunciation of what this House of Representatives has stood for these last few years or stands for today. We are ready, capable, and able to work and reach out across the aisle to bring legislation that is important to the American people and for it to be sound legislation, for it to make a difference to the American people, but more importantly that it be done in a proper, cautious fashion that creates health and opportunity for the American economy and for the American family.

That is what this United States Congress should be all about, producing a product that are accomplishments that we can be proud of.

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

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

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

H. Con. Res. 464. Concurrent resolution honoring the 10 communities selected to receive the 2004 All-America City Award.

The message also announced that Mr. COCHRAN be added as a conferee in Lieu of Mr. SPECTER, on the part of the Senate, on the bill (H.R. 4818) ''An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.''.

The message also announced that the Senate has passed a bill and concurrent resolutions of the following titles in

which the concurrence of the House is requested:

S. 1217. An act to direct the Secretary of Health and Human Services to intensify programs with respect to research and related activities concerning falls among older adults.

S. Con. Res. 123. Concurrent resolution recognizing and honoring the life and legacy of Alexander Hamilton on the bicentennial of his death because of his standing as one of the most influential Founding Fathers of the United States.

S. Con. Res. 149. Concurrent resolution commending the National Oceanic and Atmospheric Administration and its employees for its dedication and hard work during Hurricanes Charley, Frances, Ivan, and Jeanne.

The message also announced that the Secretary of the Senate be directed to request the House to return to the Senate the papers with respect to (S. 2283) ''An Act to extend Federal funding for operation of State high risk health insurance pools.''.

CONFERENCE REPORT ON H.R. 1350, INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 858 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 858

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

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

This rule waives all points of order against the conference report for H.R. 1350 and against its consideration, and provides that the conference report shall be considered as read.

Mr. Speaker, shortly after my second son, Alex, was born in 1994, my father gave me some healthy words of advice when he said that Alex Sessions would be the greatest thing that would ever happen to our family. He knew and understood that in fact Alex was a very special baby. He was born with Downs Syndrome. The past 10 years have reaffirmed my father's words to me, and Alex has become one of the greatest parts of our family's life.

Ten years later, Alex is a very happy third grader at Lakewood Elementary in Dallas, Texas; and Alex has the support of numerous teachers, students, and parents who provide him with remarkable educational lessons and invaluable friendships. For each of the last 2 years, Alex has been rewarded with the school's highest citizenship honor, to be a Lakewood Super Stallion.

In the last 3 weeks, Alex has successfully written for the first time his first and last name. While these are great personal achievements for Alex and our entire family, stories like these are being told all across the country because of the extra efforts of those dedicated educators who are working diligently with these wonderful children under landmark Federal legislation known as IDEA, or Individuals with Disabilities Education Act.

Several decades ago, Congress passed this legislation to guarantee children with disabilities full access to a fulfilling and appropriate public education. And while I have talked today about the many successes and achievements of this important program, there are also areas within the law that could and can use improvement and adjustment. I am proud to support the bipartisan legislation that is before us today to reauthorize and improve this most important education program to ensure that the true promise and intent of this act is carried out to the fullest extent of our abilities as Congressmen.

Mr. Speaker, H.R. 1350 creates an educational atmosphere focusing on the future of our most vulnerable children. It builds on the existing strengths of IDEA, while modernizing and improving the program to guarantee that children with disabilities have the most appropriate tools to fully utilize their gifts. The changes that we are making in IDEA will give children measurable goals to ensure they reach their postsecondary living and employment goals.

H.R. 1350 directly addresses perhaps the greatest problem facing IDEA, the effective monitoring and enforcement of the act. Effective July 1, 2005, it will give the Secretary of Education clear authority to enforce standards to monitor and enforce whether or not schools are in compliance with IDEA, authority that has been lacking since the inception of this education initiative. States will be empowered to create an acceptable set of standards; and if they are not met, the Secretary of Education will now have the tools necessary to take appropriate and reasonable action to work with State and local educators to remedy the situation.

This conference report provides Congress with a 6-year glidepath to fully fund IDEA by 2011. Under President Bush's leadership, funding for all education programs, in particular IDEA, have been a high priority. In his first term, President Bush increased IDEA funding to States by $4.8 billion, or what we would know as a 76 percent increase. This Republican-controlled Congress, which I am proud to be a part of, has increased the Federal share of IDEA funding to 19 percent in 10 years, whereas our predecessors in the Democrat-controlled Congresses only allowed the Federal share of IDEA costs to reach 7 percent.

H.R. 1350 also restores trust and constructive dialogue to the relationship between parents and school personnel promoting an earlier resolution to problems before they end up in court. This legislation creates the opportunity for a resolution session within 30 days of a complaint being filed to quickly resolve the problem. The constant threat of litigation creates an atmosphere of distrust between parents and schools, an environment that harms everyone involved.

Today's legislation also solves another problem that has plagued IDEA for too long. Today, many children with reading problems are misidentified as learning disabled and wrongly placed in special education classes, a costly mistake which siphons away valuable funding from students who truly need IDEA services. To address this issue, H.R. 1350 requires districts with significant over-identifying of students to operate early intervention programs to reduce over-identification, eliminating the outdated IQ discrepancy, a model that relies on a wait-to-fail approach, and introduces a response to intervention model that identifies specific learning disabilities before the students are at a failing grade level.

I am proud of this new IDEA legislation. Because of the important resources that H.R. 1350 provides to our schools, it may one day help my son Alex to further meet his goals of learning to read.

I am pleased to note that the House version of this legislation successfully passed through the Committee on Education and the Workforce, and then through the House in April of 2003. Today's conference report enjoys the overwhelming bipartisan support of its conferees, and I am confident that this report will enjoy wide bipartisan margins in both Houses before it is signed by President Bush.

I would ask that all my colleagues on both sides of the aisle demonstrate their commitment to the special education needs of our country's disabled children by supporting this conference report. I would like to thank the House sponsor of this legislation, the gentleman from Delaware (Mr. CASTLE), and the chairman of the Committee on Education and the Workforce, the gentleman from Ohio (Mr. BOEHNER), for their dedicated hard work in producing the conference report.

I would also like to take a minute to commend the conferees from both bodies that have labored to produce this fine product, including the gentleman from California (Mr. GEORGE MILLER), Senator EDWARD KENNEDY, and Senator JUDD GREGG.

Mr. Speaker, I urge my colleagues to join me in supporting this rule and the underlying legislation.

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

□ 0945

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

I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I would like to express my appreciation to the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, for returning to this House a bipartisan-supported conference report on the Individuals with Disabilities Education Act.

Last year, when the House first considered H.R. 1350 which reauthorized the IDEA, I felt compelled to oppose that bill. It undermined, in my opinion, the basic rights of children in need of special education to quality education. It undermined the rights of these students' families, and it failed our States and local school districts to effectively provide special education services for these students. Worse yet, the Republican leadership refused to allow any amendment addressing the need to provide full funding for the Federal share of special education to even be debated in this body. It was the House at its very worst.

Today is a very different day. We have before us a bipartisan-supported bill. We have a bill that maintains the basic civil rights of children with disabilities. We have a conference report that addresses long-standing problems with IDEA monitoring and enforcement by the U.S. Department of Education.

We have a bill that has added protections for children with special needs who have fallen between the cracks for too long; in particular, the 1.3 million children who experience homelessness each year and the 500,000 children in foster care. These children, who are moved around and change schools frequently, disproportionately suffer from learning and physical disabilities than children from stable homes, but they have greater difficulty accessing special education services. This bill now ensures that their individual education plans can travel with them so they are not denied services or regress further when moving from school to school.

From the bottom of my heart, I thank the conferees for remembering these children and addressing this problem in this bill.

This bill also helps schools resolve conflicts over providing special education services and reduce litigation. It should result in reducing the over-identification and misidentification of non-disabled children, especially among minorities and other disadvantaged communities. It reduces paperwork requirements, improves transition services, and strengthens methods for measuring student progress, all of which should improve the academic achievement of special education students.

This bill, however, is not perfect. For example, I believe we still have a long way to go toward ensuring a seamless system for infants, toddlers, and preschoolers with disabilities, let alone successfully preparing and transitioning these children into K–12 special education programs.

And, most importantly, this bill still does not guarantee mandatory funding for the Federal share of IDEA State grants. This year alone, special education funding is $2.5 billion short of what Republicans promised in their budget and only half of what has been authorized under the IDEA. This leaves already cash-strapped schools without the support needed to ensure that all students, no matter their disabilities, receive the same education opportunities.

Mr. Speaker, I remain deeply concerned that Congress will continue to break its promise to our States, our local schools and our special needs children and families to provide the 40 percent Federal share of funding for federally mandated special education programs and services. For 30 years we have failed to keep our word to fully fund this law, and I see nothing in this bill to reassure me that Congress will meet even the more modest funding targets set in this bill. We seem perfectly able to ignore, back away from, or reduce our commitment.

I believe it is well past time for Congress to step up to the plate and fulfill its promise to fully fund the Federal share of special education programs. Until we do so, local and State education budgets will have to continue to rob from other education programs in order to pay for mandatory special education services, breeding unnecessary resentment towards the children and families who require these programs and placing increased stress on scarce education dollars.

I promise my colleagues, I promise the children and families and schools in the Third Congressional District of Massachusetts that I will continue to fight for full mandatory funding of the Federal share of IDEA. I hope President Bush will finally make this funding a priority in his budget next year.

Mr. Speaker, even with these concerns, I believe this conference report is an important step forward for our special education programs and services, and I urge my colleagues to support this rule and to support the conference report on H.R. 1350.

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

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

Mr. Speaker, last night, late in the Committee on Rules, the ranking member of the Committee on Education and the Workforce, the gentleman from California (Mr. GEORGE MILLER), came before our committee and talked with great confidence and exuberance about the hard work that had been produced by not only the conferees but also that proud committee. Today, I am very pleased to have that chairman, the gentleman from Ohio (Mr. BOEHNER), who has worked diligently for the past few years not only with me as a parent with a child who falls under IDEA but also with all Members who bring thoughts and ideas about encouraging our teachers and our parents and our children to achieve greater things. I would like to publicly say that not only the gentleman from California (Mr. GEORGE MILLER) but also what the gentleman from Ohio (Chairman BOEHNER) has done has been of great service to our country, and I would like to thank him for that.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Chairman BOEHNER).

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

Mr. Speaker, I rise today in strong support of this rule. The conference report on the reauthorization of IDEA represents the culmination of 3 years of effort to strengthen and renew special education. I want to thank the gentleman from Texas (Mr. SESSIONS), who I have worked closely with over these last 3 years on all of his efforts to help us strengthen and renew this program. I know it is an issue he feels very strongly about, and I want to thank him for his leadership.

I also thank the gentleman from Delaware (Mr. CASTLE), who is the subcommittee chairman on the Subcommittee on Education Reform, the author of this bill. He worked this bill through the committee and through the House and through this conference, and without his strong leadership we would not be here today.

I think the bill that we will have before us soon is a tremendous achievement of compromise, vision, determination, and bipartisanship.

I want to thank my partner in this process over the last 4 years, the gentleman from California (Mr. GEORGE MILLER), the ranking member on our committee. While we have had disagreements on many occasions, in the end I think what the gentleman from California (Mr. GEORGE MILLER) and I both believe is we have a responsibility to legislate on education and workforce matters and at the end of the day we were able to come together and produce this bipartisan conference report.

In crafting this bill, we listened to parents, teachers, students, and advocates. We listened to the President's Commission on Excellence in Special Education, and the principles around the creation of this bill are very similar to the principles that the Commission on Excellence in Special Education came forward with as well.

We listened to schools, the people on the front lines of educating children with special needs. We began this process with the principles of No Child Left Behind firmly embedded in our minds. In No Child Left Behind, we put a system in place to ensure that students

with disabilities, along with all students, are getting access to the education that they deserve. In this bill, we are making sure that the rules help special education teachers and parents get the most out of that system, instead of making it harder for them.

This bill is an across-the-board win for parents, teachers and students with disabilities. I urge my colleagues to support the rule today.

I will have more to say when we get into the bill itself about the changes made in this bill that truly will help students with special needs, their parents, and the teachers and school administrators who often in the past have been at serious conflict. We attempt to reduce that conflict in this bill to make it easier for these students to get an education and make it easier for school administrators and special ed teachers to be able to provide these services to the most special of our children.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), the ranking member on the Subcommittee on Education Reform.

Ms. WOOLSEY. Mr. Speaker, I did not support this bill, H.R. 1350, when it first came out of our subcommittee and then our full committee and then passed the House. But, since then, there has been a lot of bipartisan effort, and now I believe we can achieve what we were aiming for.

We can have and will continue to set aside our political differences so that we work together in our children's best interests. For that I thank our conference chairman, the gentleman from Ohio (Mr. BOEHNER); our ranking member, the gentleman from California (Mr. GEORGE MILLER); the chairman of my subcommittee, the gentleman from Delaware (Mr. CASTLE); and the conferees from both the House and the Senate.

I believe that this process, if we follow it, can and must be the standard for the new Congress. Imagine a Congress that puts children before politics. That would be something in and of itself. Today, we are setting an example. We have raised the bar. We have set a standard that together, both sides of the aisle, both the House and the Senate have said, oh, my, let us put children first.

Let us support the rule, support the bill and support the countless students and parents and teachers and school administrators who advocate for children with disabilities who have come to us to make certain that we understand how IDEA works for them and where it does not work. In this bill today we are making a difference in the lives of people who are affected day in and day out by what we will be voting for.

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

Today we are having a discussion about some of America's greatest gifts, and that is our children with disabilities. An observation I would make is the kind words on both sides have come as a result of a lot of hard work, a lot of hard work not only within this body but also with the Senate. It also came as a result of a lot of hard work where members of that committee and subcommittee had to go out all across America and listen to parents and listen to educators and to listen to people. Certainly the gentleman from California (Mr. GEORGE MILLER) was a huge part of this success.

Mr. Speaker, at this time, however, I would like to suggest that the gentleman from Delaware (Mr. CASTLE) was a great leader in this process. He made sure of the strength of his argument so this law would make a difference. So I, like the gentleman from Ohio (Chairman BOEHNER), stand here to say that the gentleman from Delaware (Chairman CASTLE) has done a great job on behalf of so many students.

Mr. Speaker, I yield 5 minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for not just managing this rule today but for his own personal interest in this legislation. He and I have had several discussions about this. His input was extremely helpful. For that, I am certainly personally appreciative. The gentleman's interest is typical of a number of Members who spoke to me and others about their concerns about this particular legislation.

The gentleman is correct. This legislation, as much as anything we deal with in the Committee on Education and the Workforce, really embraces a wide scope of all of America in terms of the interest which is there. Virtually all school districts, many parents, and many interest groups deal with the issues of children with disabilities. I am delighted that we were able to work this legislation out in conference with the Senate.

□ 1000

Obviously I do rise in support of H. Res. 858; and as the sponsor of the underlying bill, H.R. 1350, I also support all aspects of the bill which is before us.

I think it is important maybe to understand how all this came about, because it was not easy. It took a long time to do it. In preparation for this, our committee had seven different hearings. We launched a Web-based project a couple of years ago called Great IDEAs which was designed to solicit input from stakeholders in special education across the Nation. We received literally thousands of responses from teachers, school administrators, parents of children with special needs, and others familiar with the unique needs of children with disabilities. Many of those are incorporated in H.R. 1350.

The process in terms of the bill itself began 19 months ago in the House of Representatives; and that bill, which was called the Improving Education Results For Children With Disabilities Act, aimed to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, and addressing the problem of overidentification of minority students as disabled. In addition, the bill sought to reduce litigation and reform special education finance and funding. I am pleased to say the conference report includes all these important reforms.

It is very interesting, Mr. Speaker, to sit here and say all that in a couple of sentences when in reality each of those different policies took many, many hours and even days and months of negotiation in order to work out all the differences that existed amongst the groups and blend it together into something that is supported by everybody today.

Obviously, we have worked with the Senate. I say ''we.'' I give tremendous credit to the staff on both sides of the aisle here and in the Senate staff as well for their great work in the past 6 weeks in very, very serious negotiations to get all of this worked out. And so the resulting conference report which we have before us today will make tremendous strides in helping to achieve a quality education and services for children with special needs.

For that reason, Mr. Speaker, I urge swift approval of the rule and hopefully, following that, swift approval of the underlying bill.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. KIND) who is a member of the Committee on Education and the Workforce.

Mr. KIND. Mr. Speaker, I thank my friend from Massachusetts for yielding me this time. I want to commend the leadership of the Committee on Education and the Workforce, from Chairman BOEHNER and Ranking Member GEORGE MILLER to Subcommittee Chairman CASTLE and Ranking Member WOOLSEY, all the members of the Committee on Education and the Workforce, the work that was done in the conference committee for trying to produce this bipartisan bill. That is why today I am proud to stand in support of the rule and also in support of the reauthorization of IDEA.

Mr. Speaker, this is an incredibly important program that was created in the mid-1970s. It was created under the premise that every child in America should have access to a quality education, including children with special needs. Since that time, the schools throughout the Nation have brought these kids in, have embraced them, have dealt with issues in regards to the authorization language, in regards to funding issues; but fundamentally it is a program that works and is working for our children with special needs.

This legislation, I think, goes to clean up a lot of the problems that were inherent in IDEA. The gentleman

from Delaware just referenced some of the paperwork burden that our special education teachers have been straddled with for so many years. There has been the issue of disciplinary problems in the classroom that I think we have reached a good compromise on now. It was the goal in this reauthorization bill to improve the quality of the teachers in the classroom dealing with these children with special needs, the second most important determinant on how well our kids are going to perform just behind parental involvement. It does strive to increase student performance and educational achievement. Overall, this is a very good bipartisan bill, and I would recommend my colleagues today to support this reauthorization bill.

But there are also some things in the future that we have to stay focused on and continue to work on and that is the impact of No Child Left Behind and the new standards and the testings and the impact it is going to have on these children with special needs and the fact that under No Child Left Behind, every child is supposed to be 100 percent in conformance of the rules that were written by the Department of Education by 2014. We just know now that there are some children that are not going to be able to obtain that high standard. Unless we are willing to start telling the schools that by 2014 every one of them is going to be failing, I think we need to be a little bit more realistic in our approach to these children and what is going to be required, but without leaving any child behind.

But I think another big problem that we are going to have to continue to slug out here starting with this omnibus coming up but also in future years is the funding of IDEA. The Congress has never lived up to the full cost share promise that was made, the 40 percent cost share for IDEA funding. This means the financial burden has been left at the local level. It is affecting property taxes back in the State of Wisconsin, which are going up way too much; and it is starting to pit students against students in the classroom over the allocation of the limited resources that we are allotting for IDEA and also now for No Child Left Behind.

I am disheartened to hear some of the figures coming out of the omnibus discussions where the President was requesting a $1 billion plus-up for IDEA. It looks like we are only going to get about $600 million. That is far short because this last fiscal year we were only funding it at 19 percent of the 40 percent full cost share. We can do better. For $10 billion, we could fully fund IDEA and get up to that 40 percent cost share and alleviate the financial burden that is straddling so many of our school districts throughout the Nation. It is just a question of priority, a priority of what we are going to place first as an investment in our budget, whether it is going to be the children and the future of our Nation or whether it is going to be other priorities that we are going to see in this omnibus.

Let us face it, Mr. Speaker. By the end of this year, we will have allocated close to $200 billion for what is taking place right now in Iraq. We are hearing rumors now that the administration is going to come back early next year requesting another 70 to $75 billion in Iraq. With just a fraction of that amount, we could fully fund IDEA, fully fund No Child Left Behind, give the schools, give the teachers, give the parents the resources they need to make sure that every child has the opportunity that they need to succeed in this country and in this world. That is what is at stake.

While we have got a good bill to support today, I think there is more work that we have to stay focused on and try to work in a bipartisan fashion to address the implications of No Child Left Behind with IDEA students and the element of full funding for this program. Hopefully, we will have the same type of bipartisan spirit as we move forward in the future.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. I thank my colleague for yielding me this time.

Mr. Speaker, I rise in support of the rule. Initially, I would like to thank the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Delaware (Mr. CASTLE), and the gentlewoman from California (Ms. WOOLSEY) for over 2 years of work on the important legislation that the rule makes in order.

I am pleased that this conference agreement includes a new provision that is similar to bipartisan legislation I sponsored with the gentleman from California (Mr. GEORGE MILLER) to help provide specialized textbooks to students with visual disabilities. The law we are reauthorizing today, the Individuals with Disabilities Education Act, requires that all disabled students be provided with educational opportunities. For students with visual disabilities, this includes access to specialized instructional materials, such as braille, large print and audio textbooks. Translating a textbook into these successful formats, however, is a cumbersome, time-consuming, and expensive process for States and school districts. As a result, visually impaired students oftentimes receive their textbooks long after school has started and can be needlessly left behind their sighted peers.

The legislation before us today will help solve this problem. It creates a centralized clearinghouse that States and local school districts can use to obtain electronic copies of textbooks to be translated into the appropriate format for visually impaired students. That is a simple solution that will make a big difference in the quality of education provided to visually impaired students. I commend my colleagues for the work they have done to include this provision in this legislation and urge support of the rule.

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

Mr. Speaker, as speaker after speaker on our side has already said, this is a much improved conference report from the bill that we originally saw before this House a few months ago. It is supported. It deserves bipartisan support. I hope my colleagues will support the rule. I hope they will support the final passage of this conference report.

Mr. Speaker, this may very well be the last rule that I manage for our side in the 108th Congress. So I wanted to take this opportunity to pay tribute to the ranking Democrat on the committee, my friend MARTIN FROST. He is one of the smartest Members to serve in this body. He became an expert in the rules of the House, and he fought the good fight every single day for people and for causes that oftentime get overlooked in this body. I think our Nation is better because of his service, and I think we will miss him.

The gentleman from Texas (Mr. SESSIONS) offered a resolution in the Rules Committee last night, and we got to pay our tributes to the gentleman from Texas (Mr. FROST) then; but I wanted to take this opportunity just to express publicly my appreciation for his service not only to this Congress but to the people of this country.

I also want to say that we are going to miss our colleagues SUE MYRICK and TOM REYNOLDS who are leaving the Rules Committee to take on other committee assignments. Both of them have been good and strong members of the committee, and I have enjoyed working with them.

Finally, Mr. Speaker, I want to take this opportunity to thank the majority and the minority Rules staff. These men and women work incredibly hard, probably harder than most people could possibly appreciate. In particular, let me thank Mr. FROST's staff who have served this House to the best of their abilities. They have done a wonderful job under difficult circumstances, and they deserve to be thanked for their service. As a former staffer myself, I have a special appreciation for the work that members of the staff do.

Specifically, I want to recognize Kristi Walseth, who is the staff director; Askia Suruma; Sophie Hayford, who also served with my old boss and former Rules Committee chairman, Joe Moakley; John Williams; Shannon Meissner; Jane Hamilton; and Jeff Rosenthal for their work and their dedication in this House and to the causes that they believe in during the 108th Congress.

I also want to thank the associate staff on our side: Fred Turner who has served with great distinction for ALCEE HASTINGS; Rosaline Cohen who has worked very hard for LOUISE SLAUGHTER; and Keith Stern who has served me incredibly well and worked incredibly hard on behalf of this Congress for all their work as well.

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

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

I, too, would join with the gentleman from Massachusetts in enunciating our support of not only the staff members of the Rules Committee and for the hard work that they put in day in and day out and night in and night out but also would join in support of what the gentleman from Massachusetts said when he talked about our colleague MARTIN FROST. The gentleman from Texas (Mr. FROST) has served for 26 years as a distinguished Member of not only the House of Representatives but also in his service to the people of the 24th Congressional District of Texas. During that period of time the gentleman from Texas has distinguished himself as a person who would articulate not only the position of the Democrat Party but also a position that was very successful in support of veterans all across this country and in many other issues that he so deeply believed in, including a major piece of legislation which was known as the Amber Alert system for children who had been taken from their parents.

Mr. Speaker, I include for printing in the CONGRESSIONAL RECORD a resolution that was passed by the Rules Committee last night, November 18, 2004:

RESOLUTION OF THE HOUSE COMMITTEE ON RULES NOVEMBER 18, 2004

Whereas, Martin Frost has served the United States House of Representatives and the citizens of the United States with excellence since first elected to this body in 1978;

Whereas, Martin Frost began developing his extensive political and legislative expertise as a reporter for Congressional Quarterly, and then as a practicing attorney in the Dallas area, while honorably serving the country as a member of the United States Army Reserves;

Whereas, Martin Frost has represented the constituents of the 24th district of Texas, serving the citizens of the Dallas and Fort Worth areas for 26 years in the House of Representatives with outstanding diligence and passion. He has taken on issues of importance to the diverse population of his district, such as the active- and reserve-duty military, and Medicare, and has been an integral figure in the creation of the nationwide AMBER Alert system for missing children;

Whereas, Martin Frost has utilized his status as the highest ranking Southern Democrat in the House, and as a senior member of the Texas delegation, to address concerns vital to his region, such as transportation issues, veterans affairs and youth violence;

Whereas, Martin Frost has exemplified himself as a model of leadership of the Democratic Party in the House, serving in the capacity of chairman of the Democratic Congressional Campaign Committee, as well as chairman of the House Democratic Caucus during his career in Washington, proving himself to be an astute policy and political strategist;

Whereas, the Committee on Rules has benefitted greatly by the service of Martin Frost since his appointment to the committee as a freshman in 1978, most recently through his leadership as Ranking Minority Member of the Committee, acting as a sounding board for the Democratic delegation in advocating legislative priorities and providing his extensive knowledge of the House rules and practices garnered from his 26 year service to the Committee to ensure success in fulfilling its jurisdictional duties;

Whereas, the tenure of Martin Frost in this United States Congress has been characterized by honesty, integrity, and a general willingness to work together with colleagues, on a variety of important issues: Now, therefore, be it

Resolved by the Committee on Rules, That its Members express their deep appreciation for the service Martin Frost has selflessly given to the country, our citizens, the House Rules Committee, and the United States House of Representatives, and wish him the best of luck and godspeed on all future endeavors.

Mr. MCGOVERN. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Massachusetts.

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman for his resolution last night and for his words today.

Mr. SESSIONS. I thank the gentleman for his comments, also, about our colleague from Texas (Mr. FROST).

Mr. Speaker, we have also earlier thanked a number of people, the Members of Congress who were a part of making this bill, IDEA, successful. Certainly we will have in a few minutes the opportunity to hear from Chairman BOEHNER once again and his colleague, the ranking member, GEORGE MILLER, from California. Both of these gentleman spent an incredible number of hours working together. We have heard obviously from the gentlewoman from California (Ms. WOOLSEY). We will also hear from the gentleman from Delaware (Mr. CASTLE).

But I think it is important that we also say that there have been a number of people who have worked behind the scenes to make this bill successful and they really come from both sides of this great hall, the Senate and the House. I would like to personally thank Connie Garner from the office of Senator KENNEDY; David Cleary from the office of Chairman BOEHNER. David has worked tirelessly not only on behalf of these children but also doing town hall meetings to make sure that we got this right. Melanie Looney, who is also from Chairman BOEHNER's office; Alex Nock, who is from Mr. MILLER's office; Denzel McGuire from the office of Senator JUDD GREGG.

I would also like to thank from my staff Bobby Hillert and from the White House Elan Liang for their hard work to make sure that this document not only enunciated a better policy but also took in all the feedback from educators, parents and students from across this country who wake up every day to make IDEA better.

I do, too, encourage all my colleagues to support this bipartisan piece of legislation.

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

□ 1015

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 858, I call up the conference report on the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 858, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 17, 2004, at page H9895.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes.

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

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1350.

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

There was no objection.

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

Mr. Speaker, I rise today in strong support of the H.R. 1350 conference report. Three years ago we began a process to strengthen and improve special education for the 6½ million American students participating under the Individuals with Disability Education Act. Today we have a final reform bill that will help us achieve that goal. The gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform of my committee was the author of this bill that we passed in the House in April of 2003. I think he deserves great credit for his leadership throughout this process. He wrote a good bill and worked to ensure that these important reforms will be enacted in a bipartisan manner. The final bill we produced is closely aligned with the findings of President Bush's Commission on Excellence in Special Education, and with the bill that we passed in the House again in April of 2003.

We set out with one fundamental goal in mind, and that was to improve the educational results for students with disabilities. And I believe that we have accomplished that goal with the bill that we have before us today.

We included important provisions to give parents more choices and greater control when it comes to their child's education. We increased the focus on academic results and more closely aligned special education with the No Child Left Behind Act. The No Child Left Behind Act was the most sweeping Federal education reform in decades for students with disabilities. For the first time we ensured that States would include children with disabilities in their accountability systems. We made it clear that all children, and I

mean all children, including those with disabilities, deserve a high-quality education.

The bill before us today will build on No Child Left Behind. We are making sure the rules under IDEA helps special education teachers, parents, and students get the most out of that system instead of making it harder for them. To support teachers and schools, we included steps to reduce the crushing paperwork burden that is keeping teachers out of the classroom and in many cases driving teachers out of the profession altogether. We also restore common sense to school discipline to keep schools safe for all students and hold students accountable for their actions. Students will have the same punishment for the same infraction unless the disciplinary problem is the direct result of a child's disability.

We also give States and schools the clarity they have been seeking on what it means to be a highly qualified special education teacher. In No Child Left Behind we said that every child shall learn from a highly qualified teacher and children in special ed are no exception. We added flexibility, though, for States and teachers to meet the highly qualified definition when it comes to special ed teachers, but we did not do anything to slow down the progress States are making in reaching that goal. We are going to cut down on costly and unnecessary litigation in special education, and we are going to hold attorneys liable for frivolous lawsuits. That is important because we need to restore a sense of trust between parents and schools. We want to encourage cooperation to do what is best for students and to get there we need to cut down on damaging lawsuits.

Our bill also puts the Federal Government on a 6-year glide path to reaching our original goal of funding up to 40 percent of the excess cost of educating students with special needs. And as we get closer to that goal, we are also going to give local communities more control over how they spend their own local dollars. And we are keeping special education funded through the discretionary appropriations process.

I just want to take a moment to thank a number of people. As I mentioned before, I want to thank the gentleman from Delaware (Mr. CASTLE) for his hard work. But we would not be here without the help of several other people. The gentleman from California (Mr. GEORGE MILLER), while we had disagreements on the House-passed bill, we came together at this late hour of this session to do what our job is to do, and that is to reauthorize this law and to do it in such a way to bring a bipartisan product to the floor of the House today.

But it would not have been possible without the help of the other body, and I have to thank the chairman of the Senate Committee on Health, Education, Labor & Pensions committee JUDD GREGG for his willingness to work with us and the ranking member of that committee, Senator TED KENNEDY. We had a small window of opportunity, and the gentleman from California (Mr. GEORGE MILLER) and I sat down with Senator GREGG and Senator KENNEDY and looked them in the eye and said we are going to be fair, we are going to do this right, and if we work together, we can in fact produce a strong bill, which we have. And we would not be here without the help of all of those people involved.

I also want to thank some of my staff and others who have worked on this. David Cleary, without whose help we would not be here at all, period. He did a great job in guiding this process. Melanie Looney on my staff, and also I want to thank Sally Lovejoy, who heads up our education section; Krisann Pearce, who I referred to as the adult the other day. I should probably refer to her as the calming, steady influence over some of my more hyperactive staff. And I want to thank Brad Thomas, who joined us just a couple of months ago and got thrown in into this process at the end.

From the gentleman from Delaware's (Mr. CASTLE) office, Sarah Rittling and from the gentleman from California's (Mr. GEORGE MILLER) office I want to thank Alex Nock for his great work as well.

Mr. Speaker, this bill is the next step in our effort to reform education in America, and I think it is going to make a real difference in the lives of millions of American students who are participating in special education. And as most of my colleagues know, I have gotten rather passionate about this. I am beginning to sound more like the gentleman from California (Mr. GEORGE MILLER) than the gentleman from California (Mr. GEORGE MILLER) himself. But I do believe that all kids deserve a chance at a good education regardless of their color, regardless of where they grew up, or regardless if they may have a disability. And I think the bill that we have today does in fact move us in a direction to help more kids, especially special ed kids, to get a chance at good education.

Mr. Speaker, I rise in strong support of the H.R. 1350 conference report. Three years ago we began a process to strengthen and improve special education for the six and a half million American students participating under the Individuals with Disabilities Education Act. Today, we have a final reform bill that will help us achieve that goal.

Representative CASTLE was the author of the bill we passed in the House in April of 2003, and he deserves great credit for his leadership throughout the process. He wrote a good bill, and he worked to ensure these important reforms will be enacted in a bipartisan manner.

The final bill we produced is closely aligned with the findings of President Bush's Commission on Excellence in Special Education, and with the bill we passed in the House in April of 2003. We set out with one fundamental goal in mind: to improve educational results for students with disabilities. I believe this bill will accomplish that goal.

We included important provisions to give parents more choices and greater control when it comes to their children's education. We increased the focus on academic results, and more closely aligned special education with the No Child Left Behind Act.

The No Child Left Behind Act was the most sweeping Federal education reform in decades for students with disabilities. For the first time, we ensured States would include children with disabilities in their accountability systems. We made it clear that all children, including children with disabilities, deserve a high quality education.

The bill before us today will build on NCLB. We're making sure the rules under IDEA help special education teachers and parents get the most out of that system, instead of making it harder for them.

To support teachers and schools, we included steps to reduce the crushing paperwork burden that is keeping teachers out of the classroom. We also restored common sense to school discipline to keep schools safe for all students, and hold students accountable for their actions. Students will have the same punishment for the same infraction, unless the discipline problem is the direct result of a child's disability.

We also give States and schools the clarity they have been seeking on what it means to be a highly qualified special education teacher. In No Child Left Behind, we said every child should learn from a highly qualified teacher. Children in special education are no exception. We added flexibility for States and teachers to meet the highly qualified definition, but we didn't do anything to slow down the progress States are making to reach that goal.

We're going to cut down on costly and unnecessary litigation in special education, and we're going to hold attorneys liable for frivolous lawsuits. That's important, because we need to restore a sense of trust between parents and schools. We want to encourage cooperation to do what is best for students. To get there, we need to cut down on damaging lawsuits.

I also want to point out one oversight. A sentence in the Statement of Managers' language of the Conference Report that provided the explanation for the attorneys' fees language was inadvertently left out. By adding at Note 231 sections detailing the limited circumstances in which LEAs and SEAs can recover attorneys' fees, specifically Sections 615(i)(3)(B)(i)(II) and (III), the Conferees intend to codify the standards set forth in *Christiansburg Garment Co.* v. *EEOC*, 434 U.S. 412 (1978). According to Christiansburg, attorneys' fees may only be awarded to defendants in civil rights cases where the plaintiff's claims are frivolous, without foundation or brought in bad faith.

Our bill also puts the Federal government on a 6-year glide path to reaching our original funding goal of up to 40 percent of the excess cost of educating students with disabilities. As we get closer to that goal, we're also going to give local communities more control over how they spend their own, local dollars. And we're keeping special education funded through the discretionary appropriations process.

I'd like to take a moment to thank members of the staff who have been so instrumental in producing this great bill. With my staff, I'd like

to thank David Cleary and Melanie Looney, who did a remarkable job crafting this bill and negotiating the final conference report. I'd also like to thank Sally Lovejoy, Krisann Pearce, and Brad Thomas. From Representative CASTLE's office I'd like to thank Sarah Rittling, and from Representative MILLER's office I'd like to thank Alex Nock.

Mr. Speaker, this bill is the next step in our effort to reform education in America. It will make a real difference in the lives of millions of American students participating in special education. I urge my colleagues to join me in supporting this bill.

Mr. Speaker, with the No Child Left Behind Act, we made a commitment to America's students, parents, and schools. We said that every child in America deserves a high quality education, and no child should be left behind.

I think that commitment was particularly important to students with disabilities. For too many years, these students have been allowed to fall between the cracks. Many States excluded them from accountability systems, wrongly assuming these children can't learn.

They can learn, and they should. They deserve the same high quality education as the rest of this Nation's students. They deserve the same high quality teachers, and the same focus on their academic results.

H.R. 1350 fulfills that vision. It says that special education is important. It makes clear that we must focus on breaking down bureaucracy and building up results. This is an important bill for students participating in special education, and I urge my colleagues to support it.

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

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

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I want to begin my remarks by also thanking people because I think many people are surprised, myself included, that we are here today.

This has been a rather toxic season in the political arena and in this Congress. There is not a lot of evidence that there is a lot of bipartisan action taking place in the Congress of the United States. But in this committee on this subject we were able to work through all of those environmental concerns about the atmosphere and arrive at legislation that is going to be very good for those children with special needs.

And I want to thank the gentleman from Ohio (Mr. BOEHNER), our chairman, for all of his time, his effort, his political skill within his caucus and I think within my caucus, too, to get us to this point. And to the gentleman from Delaware (Mr. CASTLE), who, as we all know, is absolutely committed to getting good legislation on the books, to write good law, and to do it on behalf of our Nation's school children to see that they get a good opportunity at the education that should be offered to them.

I want to thank Senator TED KENNEDY and Senator JUDD GREGG for their cooperation in deciding even before the election that we would take a shot at getting this passed before this session closed down, and we were able to do it. I also want to thank the gentlewoman from California (Ms. WOOLSEY) on our side, who managed this legislation for the minority, who took it from the early days when it was clearly very confrontational, to smoothing out some of the rough spots and finally helping us arrive at the compromised positions that maintain the integrity of IDEA, to also improve IDEA and make sure that our commitment to these young children and their educational opportunities are clear as a matter of Federal law.

I want to thank the staff on our side, Alex Nock and Alice Cain, Ruth Friedman and Lloyd Hoowich, for all of their help. This was long hours by the staff. And on the Republican side, David Cleary, Sally Lovejoy, Melanie Looney, Krisann Pearce for all of their help in working with people on the Democratic side. And on the Senate Republican side, Denzel McGuire, Bill Lucia; Senate Democrats Connie Garner, Roberto Rodriguez, and Michael Yudin for their help.

This would not have been done had these people not been able to come together and work their way through bills that were different in many ways. But the fact of the matter was it did happen, and I think the children with special needs who need this law are going to be well served, as are their parents, as are their schools, and as are their teachers.

I have a special connection to this law because I was in Congress and served as one of the original authors of this law when it was first passed in 1974. And in 1974 when we surveyed the Nation's schools and the State systems of school, we found that children were, on an ordinary basis, on a regular basis, excluded from the classrooms of this Nation. They were put into basements. They were put into segregated schools. They were put into separate classrooms. They were not allowed to come into classrooms if they were in a wheelchair, if they needed assistance for their physical disabilities; and a dramatic percentage of minority students, were labeled as retarded, were labeled as having an inability to take advantage of an education in numbers that defied any statistical understanding that any population would be labeled in that fashion.

Hundreds of thousands of children mislabeled and therefore not allowed to go to the schools of this Nation. And at that time we passed the Education for all Handicapped Children, as it was called in those days. And from that time forward, this law has become one of the basic civil rights laws of this Nation for those children with special needs, for their families, and for those schools, recognizing the commitment that this Congress made to these children and their families, that they would get a free and appropriate education in the least restrictive environment to make sure that, where possible, these children would be in the mainstream classrooms of our Nation's schools. They would be able to participate with their peers on a regular basis. They would be able to enjoy the benefits of that educational opportunity, that no longer by simple reason of their special needs would they be segregated, no longer by reason of their special needs would they be discriminated against.

This has not been a smooth road to make sure that these children would have educational opportunity and have access to that free and appropriate education in the least restrictive environment. It has been a struggle. It has been a struggle for our school districts. It has been a struggle for our taxpayers. It has been a struggle for the families of these children.

But each and every time we have made progress, and we do so again with this legislation. We make sure that they will, in fact, have qualified teachers. But we make sure that we do not drive the teachers from the teaching field by the law that we have passed here. We have provided that kind of flexibility so we can have the best of both worlds.

□ 1030

We can have qualified teachers, and we can make it workable for those teachers and for the school districts. We make sure that those children who might act out in class, who might be a discipline problem can be separated from the general population if they are a danger, but we also make sure that we do not discontinue their educational opportunities in that separate setting, however restrictive it might be. And there is a process for doing that, both to protect that child, to protect their educational opportunity, and to protect the general school population, a very important change.

We make sure that, while trying to enforce this law, that we make every effort to make sure that the child has access to a workable, individualized education plan. But we also want to make sure that, in the enforcement of those efforts, we do not engage in frivolous lawsuits, we do not engage in trying to extort the school district into positions. So we make sure that you can have access to those programs, but you do not get to take advantage of the taxpayers and the efforts that are being made.

From 1974 onward, I have had hundreds and hundreds of parents who have come to me and said, or written to me from all over the country, that, but for this law, my child would not have gotten an education; but for this law, my child would not have been able to be in the public schools. Some of those were long letters of the detailed effort by parents, taking months and thousands of dollars, to challenge the right of their child to be in an educational setting, along with the rest of the schoolchildren in this Nation.

But it is this law that made it possible, and it is law that we extend with this reauthorization. It is this law that we extend the civil rights protections of our Constitution to the Nation's schoolchildren, to those children with special needs, and it is this law that gives their parents a voice and a say in the direction of their education. It is this law that makes sure that the educational establishments of this country respond to those needs. And it is this law that tries to provide the means to work that out by offering alternative dispute resolution, by offering mediation, by offering a means by which parents and teachers and school personnel can sit down together and, at the end of that day, that child will have a chance at that educational opportunity, and the district will be in a position to provide it.

But there is something that is still lacking in this law, and that is the funding of this legislation. This is the funding of this legislation. Back in 1974, we said we would pick up 40 percent of the excess cost of the education of these children, and we have not done it. We have not done it as Democrats. We have not done it as Republicans. In the last few years, we have made a rather substantial march on that effort, but we still never get there under the budget.

Yet we have Members of Congress voting for full funding and mandatory funding of special education. We have Members signing letters to the President asking for full funding of special education. We have votes in the Senate, a majority, bipartisan votes demanding full funding for special education. But somehow we can never get there. And even in this legislation, I am glad to see that we have laid out a roadmap for over the next 7 years, I believe it is, we will arrive at full funding.

But I am worried that later tonight, as we pass an omnibus appropriations bill, we will not even meet the target in this legislation before the ink is dry or even before the President has signed it.

The President said he has not fully funded No Child Left Behind because he did not read the bill. I want the President to read this bill, because the compact with these parents and with this Congress is that we are going to reach full funding in 7 years. And if we do not, if we do not, the full educational opportunity for these students and for the other students is not going to be realized because the funding is not following this legislation. It is very important that that happen and that we start to keep our commitments on special education, that we start to keep our commitments on No Child Left Behind.

It is not enough, and we cannot continue the practice. We did it when we were in control. It is not enough to put figures into authorizations and tell people that is the law, that is what we have done, and then look behind and say we never intended to do that. We should say what we mean, and we should mean what we say. If we cannot do it in 7 years, then tell the public when we are going to do it. But this is the statement of the Congress that we will reach full funding in those 7 years, and I think that is most important.

Mr. Speaker, I include for the RECORD an editorial from this morning's Washington Post.

[From the Washington Post, Nov. 19, 2004]

MAKING PROGRESS

It is a rare piece of legislation nowadays that makes it through the House and the Senate, let alone a House-Senate conference, without ill will, partisan shouting and layers of added pork. For that reason alone, the Individuals With Disabilities Education Improvement Act, now heading toward the House and Senate floors, deserve a moment's attention. From the beginning, Republicans, Democrats and advocates were all part of the debate about this law, which reauthorizes the federal rules and funding for special education. Staffers for Sen. Judd Gregg (R–N.H.), chairman of the Senate education committee, as well as those working for Sen. Edward M. Kennedy (Mass.), the ranking Democratic member, also solicited the opinions of outsiders who were not part or organized groups, to better understand the real problems faced by students, parents and teachers. Congressional offices on the House side, notably those of Reps. John A. Boehner (R–Ohio) and George Miller (D–Calif.), did the same.

The result is a law that doesn't address every problem with special education but that does grapple with some of the tougher ones. Unlike most education bills, this one involves civil rights issues, namely the right of disabled students to receive appropriate, free education, just like other children. While reinforcing this principle, the law also addresses, for example, the contentious question of whether schools can discipline or expel unruly students with disabilities: they can, but only after an appropriate process and only if they ensure that the special services the child was receiving are not discontinued.

While attitudes cannot be legislated, the law also tries to reduce some of the adversarial tension that has built up between schools and parents in recent years by reducing paperwork, by providing alternatives to litigation and by eliminating some of the more trivial bureaucratic requirements. The law also brings special education in line with the requirements of the No Child Left Behind Act, establishing the qualifications required for special education teachers, providing funding for teachers to get those qualifications if they don't have them already and taking some steps toward establishing alternatives to assess the progress of disabled children.

Ultimately, the test for Congress is not whether this bill finally becomes law, which seems likely, but whether the goodwill surrounding it continues. The special education debate is not over, nor should it be. It is legitimate to ask about the costs of this law, both in terms of time and money; equally, it is legitimate to ask whether schools comply with it because they genuinely believe that special education is worthwhile or because they have to. The answers to both questions will affect the quality of the education all children receive. As different lessons are learned about what works best, for disabled children and for schools, legislators will need to keep the law flexible, and their naturally partisan tempers under control.

Mr. Speaker, I want to thank my colleagues on the committee—the gentleman from Delaware, the gentlewoman from California, and the gentleman from Ohio—for all of their hard work on this legislation and their genuine efforts to make this a bipartisan bill.

IDEA is a program that is very important to me personally. I was one of the original authors of the legislation in 1975 that made an historic commitment to the special needs children of the country—and their parents—to assure them the opportunity for a public education that would allow them to take full advantage of their gifts and have a full opportunity to participate in American society.

In opposed the IDEA bill passed by the House last year because I believed it undermined that bond between Congress and the special needs community. For me and for millions of American families, IDEA is more than an education law; it is a pact that never again will we abandon special needs children and cut them off from the educational services they need and deserve.

While I voted against the House version of the bill, I am pleased that the conference committee reversed many of the House positions opposed by longtime supporters of IDEA.

As a result, I support the conference report before us today because it maintains the basic civil rights of children with disabilities and their families. I am hopeful that our changes will improve their quality and access to a free and appropriate education.

One of the most important decisions we had to make in conference was whether or not children could be, in effect, punished because of their disability. I am very pleased that we took the necessary steps to ensure that children cannot be unfairly punished.

We had the good sense to include one of the most important provisions in current law: The manifestation determination requirement that school districts consider whether a child's behavior was the result of their disability when considering disciplinary action.

It is only fair to consider whether the child could control their behavior and whether they could understand the consequences of their behavior. These questions are clearly relevant and I am pleased that they will continue to be treated as relevant.

Our agreement also ensures that children who are subject to discipline cannot be put in alternative placements for unlimited periods of time and that, if suspended, they will continue to receive educational services. These measures will help these children continue on the path toward graduation rather than dropping out—and provide for the safety of other children and school personnel.

Let me also mention two improvements to current law that I believe are particularly beneficial. First, I am pleased that the conference report addresses long-standing problems with IDEA monitoring and enforcement. The Department of Education is required to monitor key IDEA issues.

These issues include making sure States educate children in the least restrictive environment and take steps to prevent minority students, from being disproportionately identified, as is too often the case. Once identified, these children are more likely to be placed in lower quality, substantially segregated environments and are more likely to be suspended or expelled.

When a State is out of compliance for two years, our agreement requires the Secretary to take an enforcement action.

These changes give the Department of Education the means to both identify problems and the authority and tools necessary to help solve them through a range of options, including advice, technical assistance, and support.

Second, I support the improved outreach and services for children who—through no fault of their own—move and change schools frequently. It is only right that we take steps that protect the 500,000 children in foster care and the 1.3 million children who experience homelessness each year.

Children who are homeless suffer from disabilities nearly four times more than children who are from stable homes, but they have great difficulty accessing special education services. Even when they have Individualized Education Plans, their IEPs often have not moved with them and the process must start over.

After months without adequate services, a child may regress so far that she or he can lost a whole school year. Our agreement improves coordination between schools and ensures that the child's IEP must transfer with them and be used until the new school district and parent can develop a new IEP.

Despite these important improvements, a fundamental problem continues to jeopardize all of our best efforts. Congress continues to ignore our 30-year old pledge to fully fund this law.

When we originally passed it in 1975, we made a simple promise: The Federal government would provide states with 40 percent of the total costs of special education—not 100 percent—just 40 percent. But we have never fulfilled our promise. As of today, we are providing nearly 20 percent of special education costs—less than half of what we promised three decades ago.

Our conference report tries to help. I'm pleased that it recommits Congress to providing States with the full 40 percent by laying our authorization levels each year that would allow us to meet the goal by the year 2011.

Obviously, this is not as soon as I would like or our children need, but at least it is a blueprint for getting us there. But the blueprint involves substantial increases each year, including this year—and I am dismayed that this year's increase may already be in jeopardy.

We must mean what we say and say what we mean—it's time to put our money where our mouth is and appropriate these funds once and for all.

I urge all of my colleagues, especially those on the appropriations committee, to make this a top priority. What could possibly be a better investment in our country than helping our children develop and grow to their full potential?

We have just gone through the experience of No Child Left Behind where the President and Congress promised to fund the new law at levels that were necessary to ensure schools would be able to meet the new goals. And before the ink was dry on that law the president broke his promise on funding. Now we are $27 billion in the red on our commitment to No Child Left Behind and America's public schools.

As Members vote to approve this conference report, and I hope they do, we must be prepared to stand by the commitment this bill makes to properly fund special education.

The bottom line for me is to ensure that all children—including all children with disabilities—have access to public education that propels them toward participation in American society to the fullest extent possible. I believe that this conference agreement moves us in that direction, and I am pleased to support it.

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

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform and the author of the bill that we have before us who has done a great job.

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

Let me just say, Mr. Speaker, that I think without the gentleman from Ohio (Mr. BOEHNER's) patience and will to continue to deal with what was a tough issue and tough politics perhaps in the beginning, we probably would not be here today. I would just like to thank him for that. I think he has just done an incredible job.

I stood at a press conference after we did the conference a couple days ago, and I looked at the cast of people who were there, including the gentleman from California (Mr. GEORGE MILLER) who just spoke, and Senator KENNEDY and Senator GREGG and the gentleman from Ohio (Chairman BOEHNER), and I realized that it was an unlikely group to come together in terms of being very liberal, very strong, and very conservative and very strong. But I also realized that every single one of those individuals had the interests of children at heart, which is hopefully what we have done in this legislation and hopefully what we have captured in this legislation.

I would just like to thank everybody that had anything to do with that: Members of Congress, a lot of whom were personally involved with this; all of the staff people who worked on this on both sides and in both Chambers who did a wonderful job, particularly in my case Sarah Rittling on my staff did an extraordinary job. The gentlewoman from California (Ms. WOOLSEY) was opposed to this initially, and we were able to resolve those differences. She and I have had some good fortune this year, the nutrition bill and this, and some other things, and I think we are both proud of our achievements, even though we have our differences from time to time. I cannot thank everybody enough.

Obviously, I rise in support of this legislation. We have been waiting a long time to get to this point, and today marks an important day for the millions of children with disabilities. As a sponsor of H.R. 1350, I have been deeply involved over the past 3 years in working to find a balanced approach to ensure children with disabilities receive the services they deserve to help them reach their potential and succeed in school. All of us have listened to thousands of parents and educators about what we can do to make the system better for the children. The resulting bill represents delicately crafted, bipartisan language that will ensure children with special needs receive the high-quality education they deserve.

For too many years, children with disabilities were simply denied access to public education. However, with the passage of the Education of All Handicapped Children Act in 1975, the doors of educational opportunity were opened. Today, more than ever, students with disabilities have an opportunity to accomplish their goals.

According to the Department of Education, about 6.6 million students currently participate in these programs in schools across the Nation. Of those, almost 50 percent of students with disabilities spend 80 percent or more of their day in regular education classrooms.

Tremendous strides have been made, and today we will be giving students, parents, and educators the tools to do even more, as I always believe we can do better. Now, more than ever, in the spirit of No Child Left Behind, we must make sure that children with disabilities are given access to an education that maximizes their unique abilities and gives them the tools to be successful, productive members of our communities.

The Improving Education Results for Children With Disabilities Act aims to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, reducing litigation, and restoring trust between parents and school districts, and focusing on monitoring and enforcement of the law. I know my colleagues in the Senate share many of these goals, and our final conference agreement surely reflects our shared desire to strengthen special education through these common sense approaches.

Today I would like to pay particular attention to reforms in H.R. 1350 that will focus on academic progress and efforts to reduce over-identification. One of the great benefits of the No Child Left Behind Act is that we have raised expectations that will hold school districts accountable for the annual progress of all of their students, including students with disabilities.

Although we have made great progress in including students with disabilities in the regular classroom, we now must make equally great progress in ensuring that they receive a quality education in the regular classroom. We have therefore carefully aligned IDEA with No Child Left Behind to ensure students with disabilities are included in the accountability system of States and school districts.

Furthermore, H.R. 1350 includes reforms that would reduce the number of students that are misidentified or overrepresented in special education programs. Minorities are often significantly overrepresented in special education programs. In fact, African Americans are nearly three times more likely to be labeled as mentally retarded and almost twice as likely to be

labeled emotionally disturbed. Current methods of identifying children with disabilities lack validity or reliability. As a result, thousands of children are inappropriately identified every year, while many others are not identified early enough or at all. We have, therefore, reformed the manner in which children are identified.

As recommended by the President's Commission on Excellence in Special Education, H.R. 1350 provides local school districts flexibility to use funds for early intervention services for students before they are identified as needing special education. Currently, too many children with reading problems are identified as learning disabled and placed in special education classes.

Today is an exciting day for the special needs of our children, and I would urge all of us to support H.R. 1350.

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from California (Mr. MILLER).

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from California?

There was no objection.

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

Mr. Speaker, I rise in support of the conference report on H.R. 1350, the Individuals with Disabilities Education Improvement Act of 2004. I did not support this bill when it first passed out of the committee, and I did not support it when it passed out of the House. But now I believe it is an example of what we can achieve when we set aside our political differences and work together in our children's best interests.

For that, I thank my conference chairman, the gentleman from Ohio (Mr. BOEHNER); our ranking member, the gentleman from California (Mr. MILLER); the chairman of my subcommittee, the gentleman from Delaware (Mr. CASTLE); and the conferees from both Houses. I echo the thanks of the gentleman from California (Mr. MILLER) to every one of our staff who have worked so hard. There is not one of us who does not know and believe that, without them, we would not be here today.

But I would also like to thank another group, and that is my Subcommittee on Education Reform dealing with special education. Because my Democratic members of the subcommittee, the gentlewoman from California (Mrs. DAVIS), the gentleman from Illinois (Mr. DANNY DAVIS), the gentleman from Hawaii (Mr. CASE), the gentleman from Arizona (Mr. GRIJALVA), the gentleman from Wisconsin (Mr. KIND), the gentleman from Ohio (Mr. KUCINICH), the gentleman from Maryland (Mr. VAN HOLLEN), and the gentlewoman from Georgia (Ms. MAJETTE), they were my backbone. They came to every single hearing. They participated. They were at every markup. They had their additions and their changes, and they were always keeping me and the subcommittee and the committee in general aware that children are our number one interest, not politics.

I believe that the process we followed here in the House and then with the conference can become and must become the standard for the next Congress. Imagine: A Congress that puts children before politics.

I also want to thank the countless students, parents, teachers, school administrators, and others who advocate for children with disabilities, because that is the group that makes sure that we understood how IDEA works for them, the people who are affected day in and day out by what we are doing today.

In this bill, we have protected the right of a child with a disability not to be punished for conduct she cannot control because of her disability. That does not mean that we are going to give kids with disabilities a free pass to misbehave. What it means is that we are going to make sure they get the support they need so that they can be fully engaged in learning.

We have also protected the rights of parents to play an active and effective role in their children's education. Now, some people might think that those particular provisions pit kids with disabilities and their parents against schools and teachers. I do not. I know that schools and teachers are committed to educating all children and that they believe this bill will help them do just that. I believe it will do just that, also.

For example, we have provided flexibility to ensure that children with disabilities will be taught by highly-qualified teachers. We have provided new opportunities for parents and schools to work out their concerns without having to file complaints. We have provided greater flexibility for parents and schools to change a child's individualized education program without every member of the child's IDP team having to meet and to meet by telephone or other alternative means, if the parent and the school agree.

□ 1045

And I am especially pleased that there is another way this bill will help schools and that is because we have included bipartisan language that I developed along with my colleague, the gentleman from California (Mr. MCKEON). The language makes it clear that Federal funds for IDEA go to schools to use for special education, not for States to use to get out of paying for their required funding or not for States to use to solve their general budget problems. That is something that my home State of California has been doing, and according to the American Association of School Administrators, this practice cost California and their schools $120 million in the year 2003 alone. I am going to keep working to see that Congress's intent to stop it is enforced.

I am also going to keep working to see that Congress keeps its promise to fully fund our commitments to IDEA. I am disappointed again that this bill does not require full funding of IDEA now. I know it does over 7 years. I want it now, even though virtually every single member of Congress routinely says that they support full funding. But I am pleased to support this report because I think it is good for parents, teachers, schools, but most importantly because it will help students with disabilities and special needs reach their potential.

I look forward to continuing to work with my colleagues to improve educational opportunities for all of our children and to ensure that the funding required to achieve these goals will be eventually and immediately put into place.

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

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. KELLER), one of our conferees working this bill out between the House and Senate and someone who has worked on this since he came to Congress.

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

Mr. Speaker, I support this legislation because special education funding, teacher quality, and school safety will all go up while unnecessary paperwork requirements and frivolous lawsuits will go down. This is a good bill, and it deserves our support.

Mr. Speaker, as the only Member of Congress from Florida who serves on the Committee on Education and the Workforce and as one of only five House Republicans to serve on the IDEA Conference Committee, I wanted to learn firsthand about the key issues impacting our special education students. So I helped teach an elementary school education class in Orlando, Florida. I also met with high school special education teachers. And I invited the leading special education expert from my hometown, Orange County Public School System, Harriet Brown, to come and testify before Congress.

From this experience I learned three important things. First, I learned that special education teachers are forced to spend up to 2 hours a day completing paperwork instead of teaching.

Second, I learned that much of this paperwork is defensive in nature because of the fear and threat of frivolous lawsuits.

Third, I learned that there was a student who jeopardized the safety of a middle school in Orlando by bringing a gun to school, yet he could not be expelled for 1 year, which is the normal penalty, because he was an ''exceptional education'' student even though his disability had nothing to do with bringing the firearm to school.

I am pleased to say that all three of these problems have been fixed in this

legislation. First, the paperwork reduction legislation I authored is specifically included in this bill. As a result, the Secretary of Education will now develop model forms which will streamline and reduce the paperwork volume, and 15 States will be free of various paperwork requirements under a new pilot program.

Second, to reduce lawsuits, attorneys' fees will now be awarded to the prevailing party, and if a lawsuit is determined to be frivolous, the lawyer that filed that suit will personally be responsible for paying the other side's costs. There will be a 2-year statute of limitations.

Third, a student who brings a gun to school can now be expelled for up to 1 year under the Gun Free Schools Act if his behavior was not directly caused by the disability.

Finally, Mr. Speaker, our investment in special education is now at the highest level in the history of the United States. From 1995 until today, Congress has increased special education funding from $2.3 billion to $11.1 billion. That is an increase of $8.8 billion, or 383 percent.

Mr. Speaker, this legislation will dramatically improve the lives of disabled children in Orlando, Florida, and all across this Nation. I urge my colleagues to vote ''yes.''

Ms. WOOLSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE) who was head of this subcommittee when we first started talking about reauthorizing IDEA.

Mr. KILDEE. Mr. Speaker, I thank the gentlewoman for yielding me time. I also thank her for her excellent and her tireless work on this bill.

Mr. Speaker, I rise in support of the conference report. This legislation is a remarkable improvement over the House bill and deserves the support of us today. The bill represents a good compromise reflecting the views of schools, disability advocates and, most importantly, parents.

The bill protects the civil rights of children with disabilities in critical areas. The bill ensures compliance with IDEA's key provisions through a strong monitoring and enforcement system.

This system will lead States to fix problems before children with disabilities fail to receive a free appropriate public education.

This bill also makes IDEA work for all stakeholders: students, parents, teachers, school administrators, and school districts. First, the legislation provides new opportunities for parents and schools to address concerns before the need to file a lawsuit arises.

Second, the bill increases parental involvement in IEP meetings by allowing the use of teleconferencing, video conferencing, and other alternative means of participation.

Third, the legislation requires initial evaluations to occur within 60 days of referral, ensuring that children get the help they need. The conference report also provides fiscal relief for school districts. The bill allows school districts which are in compliance with IDEA to replace a portion of their local expenditures with Federal funding.

This will allow school districts to begin to realize the promise we made 30 years ago to provide the Federal share of special education costs. Most importantly, Mr. Speaker, the bill also improves discipline and ensures the safety of disabled and nondisabled children alike.

The bill requires schools to determine if a child's behavior was the result of their disability or poor implementation of their IEP when considering a disciplinary action. In addition, the bill prevents schools from placing children with disabilities in alternative placements for unlimited periods of time.

Despite its positive aspects, Mr. Speaker, the main failure of this legislation is that it does not immediately meet the promise of full funding of IDEA. We made this promise nearly 30 years ago and have consistently failed to meet it.

Soon we will have an appropriations bill on this floor, hopefully today, that will not even meet the levels we have authorized in this bill. While I support this conference report, we need to do a better job of living up to our promises. This bill puts us on that path; and I therefore urge that we pass it.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS), a member of the committee, a conferee, and one who feels passionately about this issue.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me time. I rise today in strong support of the Individuals With Disabilities Education Improvement Act conference report.

This excellent bipartisan agreement is a win for parents, teachers, schools and, most importantly, students with disabilities. I was pleased to be a part of the conference committee and would like to thank the gentleman from Ohio (Mr. BOEHNER); the subcommittee chairman, the gentleman from Delaware (Mr. CASTLE); and the ranking member, the gentleman from California (Mr. GEORGE MILLER), for their dedicated work in producing this bipartisan conference report. I particularly congratulate the gentleman from Ohio (Mr. BOEHNER) for his excellent work on No Child Left Behind and also on this bill.

This bill sets in motion important reforms that will help schools, parents, and teachers ensure that all students with disabilities receive a quality education. First, the conference report gives local schools more flexibility and greater financial control over special education funding. Although Congress has increased funding for special education by almost 400 percent in the past 10 years, bringing annual funding to $11.1 billion, the Federal Government is not yet meeting its goal of paying 40 percent of special education costs.

I am pleased that this bill puts us on the track to do that. Taxpayers within my district and throughout the Nation have had to make up the cost difference. Last year, voters in my district approved a special milage to raise millions in additional special education funding. I am very proud of my community for their willingness to provide extra funding for special education.

This new bill will help such communities as the Federal share of special education costs continues to increase. Communities will be allowed more flexibility in the way educational resources are spent by enabling schools to redirect a share of their own local resources for other educational purposes.

Next, while everyone involved in a child's education plays an important role, I would like to particularly commend the parents of students with disabilities. Throughout my career as an educator and as a Member of Congress, I have been struck by the dedication and active participation many of these parents have towards ensuring their children's success. I truly believe that children, and especially children with special needs, learn best when they have at least one parent who is actively involved in their education.

This conference report supports all parents by giving more opportunity for them to be active participants in their children's educational experience by expanding parental rights and options. For example, the conference report enables parents and school districts to agree to change the student's Individualized Education Plan, known as the IEP, without holding formal meetings as is required under current law. The bill also requires parents to select supplemental educational services for their children when they attend a school that is in need of improvement because students with disabilities are not making adequate yearly progress. Both of these are marked improvements over current law.

Finally, the conference report builds upon the sweeping education reforms of the No Child Left Behind Act and emphasizes academic results for children with special needs. For too many years, students with disabilities were allowed to fall between the cracks as they were left out of accountability systems.

This bill solves that problem, and I strongly encourage my colleagues to join me in voting for this bill.

Finally, the conference report builds upon the sweeping education reforms of the No Child Left Behind Act and emphasizes academic results for children with special needs. For too many years, students with disabilities were allowed to fall between the cracks as they were left out of accountability systems. Now, States and schools are being held accountable for ensuring that students with disabilities are indeed learning. The conference report strikes an important balance between accountability and flexibility by maintaining the No Child Left Behind requirement that all children be taught by highly qualified teachers,

while providing some key flexibility for special education teachers who teach multiple subjects or teach only children with severe mental impairments.

I strongly support this excellent conference report and urge my colleagues to vote in favor of it.

Ms. WOOLSEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the full committee.

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for yielding me time and also for the excellent work she did on this bill. I also want to add my congratulations to the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Delaware (Mr. CASTLE), as well as the gentlewoman from California (Ms. WOOLSEY) who did do a good job and who went to conference and brought back a bill that I believe is going to get great support in this House.

While the final proposed version of IDEA does not meet 100 percent of the things that I and my constituents might have wanted if left to our own drafting devices, it does reach a reasonable compromise; and for that reason I support it.

Back in April of 2003, I spoke against this bill in the House version of H.R. 1350. Subsequently, I urged adoption of the bill that was a lot closer to the Senate version and, in fact, in committee I joined a number of colleagues on various proposed amendments that would have moved the House bill in that direction if they had passed. They did not. Those amendments were close votes and, sadly, they were along party lines; but I am glad to say that the conference report essentially incorporates the provisions that we sought in committee with at least one notable exception and that is the funding.

The heart of IDEA lies in the protection of children with disabilities and the individualization of their education to account for those disabilities. Therefore, the conferees were, I believe, wise to retain language requiring a determination of whether misbehavior was a manifestation of a child's disability or not. That ensures that no child is unfairly punished for their disabilities.

In addition to improving the House's version of discipline provisions, the conference report improves the monitoring and enforcement aspects to ensure the States actually comply with the law. It worked a fair compromise on early intervention. It does a much better job than existing law in addressing transition services for older students, a task I believe that we are going to have to pick up in the Workforce Investment Act as we reauthorize it in 2005, and I understand that the gentleman from Ohio (Mr. BOEHNER) has expressed a similar desire.

It sets standards for highly qualified teachers and focuses the resources on their professional development and preparing them for this specialized field. While it does not satisfy everyone, it does work out a compromise on these families and students' civil rights. That is a significant improvement over the House version of this bill.

□ 1100

So the major issue still remaining, of course, is the funding. We did take the gentleman from Ohio's (Mr. LATOURETTE) bill and my bill, which would close a loophole. The Spending Integrity Act would close that loophole that otherwise would have let districts use up to 20 percent of additional funding for noneducational purposes, and this is important to close that, but we are still falling short in that mandatory full funding is not provided.

We have a commitment to reach that goal by 2011, and I hope that everybody who is involved in making that commitment will be just as vigorous in making sure that it becomes an actuality. But given last night's vote on once again raising the debt ceiling of this Nation another $800 billion and realizing that the budgets that have been proposed by this administration continually fall short, there is no assurance that that is going to be met. We have a lot of work to do to make sure we move in that direction.

We authorize and appropriate too little this year and presumably in future years. It is a serious problem that mars an otherwise reasonable compromise, but, Mr. Speaker, with that reservation in mind, I will vote for this conference report.

Again, I want to thank all of the constituents that worked on this bill with us, as well as all the people in the committee and the leaders in conference.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of our committee.

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

Mr. Speaker, I rise in strong support of the IDEA conference report. I want to thank the conferees and our chairman, the gentleman from Ohio (Mr. BOEHNER), for their hard work throughout this process.

I am also pleased that my report language to make IDEA consistent with McKinney-Vento provisions was included. This will go a long way in ensuring that homeless children with special needs get the services they need to succeed.

In order to create a more cooperative environment for special needs students, the conference report contains a number of badly needed reforms, all of which will help parents and teachers trust each other. When that happens, they can create the most positive environment for the children.

I would like to address the fears that some of my constituents had about the discipline provision. Many in the disability community were very concerned that children could be shut out of the educational process. We all agree that a child should not be punished for behavior that is the result of a disability, and the conference report requires schools to determine if this is the case. If a student is misbehaving and it is not due to his or her disability, school officials can discipline that child in the same manner they would any other child.

Schools are given the resources to deal with the most severe case of weapons possession, illegal drugs or severe bodily harm, but the legislation specifies that the students cannot be denied services. If a behavior is attributable to a student's disability, the student will get the support he needs so that his behavior does not become an impediment to his own learning or that of other classmates.

Special needs students have the right to the services they need, but other students have the right to learn in a safe environment.

The IDEA compromise is a commonsense approach to improving special education. The reforms will shift the focus onto students and their needs instead of on the legal process. At the same time, it protects the right of student and their families.

I am proud to support this legislation and urge my colleagues to do so as well.

Ms. WOOLSEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Georgia (Ms. MAJETTE), who is leaving the committee and who will be missed.

Ms. MAJETTE. Mr. Speaker, I thank the gentlewoman for yielding me time and for her leadership.

Mr. Speaker, I rise in support of the conference report on H.R. 1350, and I also rise to thank my colleagues and the leadership on both sides of the aisle, the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Delaware (Mr. CASTLE) for their leadership.

I would like to thank the staff of the Committee on Education and the Workforce and for their hard work, as well as my staff, especially Dr. Michael Goodman, Ms. Michaeleen Crowell and Mr. Will Thomas.

It has been my honor and privilege to serve on the Committee on Education and the Workforce, and I am very pleased to support this conference report, the result of more than 2 years of hard work and one of the first items that came up on the agenda when I became a Member of this august body.

I would also like to thank the hardworking Members of the Georgia delegation from the committee, Mr. NORWOOD, Mr. GINGREY, Mr. BURNS and Mr. ISAKSON, who I know will continue to serve the interests of the great State of Georgia and children across the country.

I know that each and every one of us has been working as hard as we can in this endeavor, and it has been my honor and privilege to serve. I will miss all of my colleagues, and I urge all of

them to continue to move towards full funding of IDEA.

Mr. BOEHNER. Mr. Speaker, how much time do we have remaining on both sides?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Ohio (Mr. BOEHNER) has 9½ minutes remaining. The gentlewoman from California (Ms. WOOLSEY) has 6 minutes remaining.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE), a member of our committee, the coach.

Mr. OSBORNE. Mr. Speaker, it is a privilege to have a chance to speak in support of H.R. 1350. I am pleased that this bill has evolved into what appears to be a very bipartisan bill. I would like to thank the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Education Reform, and Members on the other side for all of their work.

There are three or four points that I would like to make that I think are particularly noteworthy regarding this bill.

First of all, it provides clear academic achievement goals for children with disabilities. In the past, once a child was identified as having a learning disability, oftentimes they were assigned to mediocrity, and there was no attempt to improve that child's learning situation.

Secondly, and maybe most importantly, it provides early intervention strategies to prevent children from being identified or misidentified as children with disabilities. If we get to children early enough with remedial help, many times children who would be labeled as disabled are simply not labeled as such and are able to be mainstreamed. Fifteen percent of the funds for IDEA are being used for this early intervention strategy, and I think that is critical.

Also, as the gentleman from Florida (Mr. KELLER) pointed out earlier, and I think this also is a very important point, the current legislation reduces paperwork related to IDEA which is particularly burdensome to teachers.

Also, this legislation clarifies what the term ''highly qualified teacher'' means. So often in Federal legislation we throw out a term and we do not specify what it is, and here we have a clear identification of what the term means.

Then, of course, lastly, I would mention the issue that comes up all the time when we talk to educators. That is, simply a lack of funding. People have locked onto the idea that 40 percent of the funding for IDEA was supposed to be Federal. It was authorized, and, of course, we have fallen far short of that. In 1995, IDEA was funded 6 percent federally. Today, it is 20 percent. So that is a remarkable increase, and we are on a 6-year path to meet the 40 percent funding.

So I urge support. It is a good bill, and I would like to thank those involved with authoring the bill.

Ms. WOOLSEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from San Diego, California (Mrs. DAVIS) and want to recognize her as one of the most informed members of our subcommittee.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I want to thank my colleagues for all their fine work on this reauthorization, and I rise in support of the Individuals with Disabilities Education Act of 2004 because I believe it will clarify and improve the support for students who have special needs.

Many of us, as my colleagues heard, are disappointed that this reauthorization does not respond to the congressional promises of 1975 by making funding for IDEA an entitlement. While the authorization language suggests that full funding will be met by 2011, the Labor-HHS bill, the appropriations bill for 2005, does not match this commitment. So we have to ask ourselves, will starting with a baby step get us to the finish line on time?

There were a number of aspects of the Senate bill that were incorporated in this, and I certainly support those, but I do want to point out that it does not include so many improvements which we had offered in the House bill that professionals who worked with special education students offered would clarify and streamline services, and I remain committed to providing the flexibility and common sense while assuring that a student's reasonable needs are met in a timely fashion with full participation and information for parents.

I was particularly concerned that responsibility for States to provide related services such as mental health for special needs children be clear. IDEA part B funds should be used for educational purposes, not to supplant State responsibilities. This is enormously important to my district and to California, and I appreciate the efforts of the gentleman from Ohio (Chairman BOEHNER) to work with me on this issue and of the Senate Members to provide the language.

I believe that this is, on balance, a bill with significant improvements, and I am certainly committed to monitoring its implementation so that we can continue to look for ways to see that our neediest students are served with dignity and meet with success.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan (Mr. UPTON), a member of our committee.

Mr. UPTON. Mr. Speaker, I thank the gentleman for the time, and I commend him for his excellent work on getting things done on this vital issue.

Being one of the last speakers, I know a lot of things have been said about this bill. I do not want to take too much time to reiterate some of them, but let me tell my colleagues what this bipartisan agreement does.

It improves communications between parents and appropriate school personnel related to the development of the individual education plan.

It reduces the number of reevaluations required for students whose disability does not change as they age and progress through school.

They ensure that the Federal dollars for IDEA flow to the local districts and cannot be diverted for other State purposes. Very important.

Continues to send the majority of Federal funds to local school districts where children are served.

It protects parents from being forced to medicate their children.

The NCLB ensures, of course, that all children will be taught by highly qualified teachers. All children need to be taught by highly qualified teachers, and special education teachers are particularly in demand. To meet that goal, the NCLB is providing dramatic funding increases for teacher quality grants, and funds can be used for training and professional development specifically for special education teachers.

Two other things about this bill today that have not been said. The first is that it takes a major issue off the front burner as this committee works to help our kids in the next Congress so that we can focus on higher education and Head Start. This issue now is behind us, and to do it in the waning hour is a terrific accomplishment not only for the committee but for every Member, particularly my chairman.

For the gentleman from Ohio (Mr. BOEHNER), my chairman, this is always a very tough weekend for him. It is the weekend that the Wolverines beat the Ohio State Buckeyes, and he is usually in a very foul mood about four o'clock tomorrow afternoon. He will be very happy today with this passage, and I am sorry that he will be so unhappy tomorrow with the score put up on the board.

God bless the Wolverines.

Ms. WOOLSEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT), a member of the full committee.

Mr. HOLT. Mr. Speaker, I thank the gentlewoman for the time, and I am pleased that the gentlewoman from California (Ms. WOOLSEY), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Ohio (Mr. BOEHNER), the gentleman from Delaware (Mr. CASTLE) and the other conferees have succeeded in providing legislation that will help ensure the basic rights of children with disabilities to see that they get a free, excellent and appropriate education.

I still believe that we must work toward mandatory funding of IDEA. It appears this year in our appropriations we are going to slip farther away from our goal of providing 40 percent of the additional cost of educating these students. We need to work to provide a full Federal share of funding to educate these students.

I am pleased that the conference report removed a cap on the number of students that schools may identify as having a disability. The Federal Government should fulfill its obligation to provide for the education of every disabled child, not according to some arbitrary ceiling.

We all recognize the need for teachers to maintain discipline, but I am pleased to see that this legislation will continue to regard as relevant whether a child's disability is the cause of specific behavior before the discipline is brought to the child.

I strongly support the added protections for children who, through no fault of their own, move and change schools frequently so that their IEPs will transfer with them and be based and be used at the new school so that the parent and the new school can then work to develop a new IEP as appropriate.

I am pleased to see that the bill includes a provision related to educational media services which ensures visually impaired and print-disabled students will continue to have access to recorded education materials. IDEA funding received by organizations like Recording for the Blind and Dyslexic are critical to providing textbooks and reading material to students around the Nation.

I hope that in the future we will be able to work in a bipartisan manner on properly funding this legislation, but, while we work on that, I think this authorization bill provides a useful basis.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Ohio (Mr. REGULA), the dean of the Ohio delegation and the chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies, my good friend.

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

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding me time, and I certainly want to compliment the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Mr. CASTLE) for producing a good bill.

In our committee, we hear a lot of testimony from parents and educators about the importance of this legislation, of these programs, and we have done everything possible to increase the funding each year to ensure that every student that has a need gets a quality experience in the IDEA program.

One of the things that this bill strengthens is those features along with giving greater choice and control to parents and local school districts, and, therefore, it will ensure that we do meet the goal of recognizing the need of every student and respond to the educators and parents that testify in my committee about the importance of this to their child and to their school.

I compliment them again, all the Members that participated in the conference committee, for producing a good bill that we can all take pride in.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) has 4½ minutes remaining. The gentlewoman from California (Ms. WOOLSEY) has 1½ minutes remaining.

Ms. WOOLSEY. Mr. Speaker, could you tell me how much time we have remaining on this side?

The SPEAKER pro tempore. The gentlewoman from California (Ms. WOOLSEY) has 1½ minutes remaining.

Ms. WOOLSEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS), the voice of our subcommittee, who represents Illinois.

Mr. DAVIS of Illinois. Mr. Speaker, I want to commend, first of all, the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Ranking Member GEORGE MILLER), as well as the gentleman from Delaware (Chairman CASTLE) and the gentlewoman from California (Ranking Member WOOLSEY), for the tremendous leadership they have displayed in bringing us to this point.

There are many good features of this legislation, and one that I am most pleased with is the fact that the conference report deals seriously with the whole question of the fact that in many places there are disproportionate numbers of certain population groups who are being placed in special education, especially African American males. The conference report deals in a serious way with the issue. It allows and suggests that school districts deal with it and permits them to use some of the resources. This is a hotbed issue in many communities throughout the country.

I want to commend the conferees for dealing seriously with it. It is a good piece of legislation. It is a good bill, and I am proud to support it.

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Ms. WOOLSEY. Mr. Speaker, I yield ½ minute to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. BOEHNER. Mr. Speaker, I yield ½ minute to the gentleman from Rhode Island (Mr. LANGEVIN).

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 1 minute.

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

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman from Ohio (Mr. BOEHNER) and the gentlewoman from California (Ms. WOOLSEY) for yielding me this time, and I rise today in strong support of conference report H.R. 1350.

Mr. Speaker, I just want to take a moment to commend most especially the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER), as well as the members of the committee, for their leadership in bringing us to where we are today. Time and time again both the ranking member and the chairman have shown an extraordinary commitment to people with disabilities, most especially children with disabilities; and it is because of their strong leadership and the hard work of the committee that we are where we are today.

And how appropriate it is that on the 30th anniversary of the passage of the Individuals with Disabilities and Education Act that we are where we started in the sense that it was passed with bipartisan support when it was first passed, and we are again here today celebrating the 30th anniversary with bipartisan support once again.

Children with disabilities will benefit a great deal from the reauthorization of this act. They are faced with so many disadvantages in so many ways, but IDEA truly helps level the playing field for them and helps them truly reach for their goals and dreams. My congratulations to all those who worked so hard to bring us to this point.

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

Mr. Speaker, over the last 4 years that I have had the pleasure of chairing the Committee on Education and the Workforce, I think we have come an awful long way in terms of transforming the Federal role in education and trying to help all of our kids in our country get a chance at a good education. And I think we have been fortunate to be able to do almost all of this in a broad bipartisan way.

The bill before us today is the result of a lot of commitment and hard work on the part of Members on both sides of the aisle. And while we have heard an awful lot of talk about IDEA and how we are transforming it, I think there is one important point that continues to be lost on many people. When we passed No Child Left Behind, we created a new paradigm for how we are going to judge the education of our special-needs students.

By disaggregating data in four subgroups in each school, including those with special needs, what we have done is we have asked schools to focus on results for our special education students as opposed to being burdened with a lot of paperwork, dotting I's, crossing T's and worrying about lawsuits. Now schools are judged on the results that they produce for these children.

There was some resistance to this, of course, because we still have people in America who think that students with special needs cannot learn. But that is nonsense, and I think all of us understand that have worked on this that these children can learn, and should learn, and society and our country owe them an opportunity to learn.

So schools now are having to produce results. And as a result the Individuals With Disabilities and Education Act itself had to be more integrated with No Child Left Behind, which we have

done in this conference report; and we needed to take the shackles off of our local school administrators and teachers so that they could focus on producing results as opposed to dotting more I's and crossing more T's and having the burdens of paperwork and lawsuits coming at them.

So I am proud of the bill that we have before us. It is not exactly what I would do, certainly not exactly what the gentleman from California (Mr. GEORGE MILLER) or the gentlewoman from California (Ms. WOOLSEY) would want. But that brings me to my last point.

The Congress, over the last few years, the last several sessions, let us call it 5 years, 6 years, 8 years, has been gripped in an awful lot of partisan strife. And what we have shown on No Child Left Behind, what we have shown on the Child Nutrition Act reauthorization we had earlier this year, the Vote Rehabilitation Act, and again today on IDEA reauthorization is that we can in fact work together.

I really do want to thank my colleague, the gentleman from California (Mr. GEORGE MILLER), the ranking Democrat. He referred to us last night in the Committee on Rules as the political odd couple, and we are. I would describe myself as a mainstream conservative Republican, the gentleman from California I would describe as a liberal Democrat. Neither one of us is shy about our opinions. But there is an issue here that I think can help not only the progress in our own committee but the progress in this House, and that is to learn to trust one another.

The gentleman from California and I began this process, this journey, 4 years ago by developing a trust with each other. And while we may disagree on many issues every day, he and I both know that we can trust each other and trust our word. I went to the gentleman from California and I went to Senators TED KENNEDY and JUDD GREGG back in September. And as highly partisan as things were leading up to the election, I looked them in this eye and said we can do this. We can do this if we trust each other, all work together, and there is a small opening that we may actually be able to finish this bill this year.

The reason we are here today is because we did in fact trust one another. We worked together. And I think once again we have produced an example of what can occur in this House each and every day if we are willing to put our partisan differences aside once in a while and think about why we are here and the trust and responsibilities that the American people have given us in order to do their work and not ours.

I thank all my colleagues.

Ms. ESHOO. Mr. Speaker, I'm pleased to rise today in support of the conference report on H.R. 1350, the Improving Education Results for Children with Disabilities Act. While the bill before us is not perfect, it is a vast improvement from the bill the House passed over 19 months ago and represents a bipartisan effort to improve the Individuals with Disabilities Education Act (IDEA).

There does remain a glaring problem that has yet to be resolved with respect to IDEA. Congress has yet to fully fund IDEA at the 40-percent level that was the original promise Congress made almost 30 years ago. Without this funding, we will continue to overburden local school districts with costs of Federal mandates relative to special education programs. This is unfair.

Too often we fund education on the cheap—shortchanging title I, the No Child Left Behind Act, Pell Grants . . . the list goes on and on. We need to set an example by staying true to our word. Until Congress agrees to fulfill its 30-year promise to fund IDEA, we really can't say we're leaving no child behind.

In closing, I reiterate my support for the bill before us and remain hopeful that in the 109th Congress we will finally fully fund this important act.

Mrs. MALONEY. Mr. Speaker, I rise in support of this conference report for the Individual on the reauthorization of the Individuals with Disabilities Education Act, IDEA.

When the IDEA reauthorization passed the House in April, I voted against this bill because I was concerned that the House bill did not provide the assistance students with disabilities deserve and I had real concerns with the way the House bill sought to discipline disabled students.

Thankfully, the Conference Committee worked in a bipartisan manner and worked for what was best for our children with disabilities. I am pleased that this bill seeks to finally meet out funding goals by increasing authorization levels for grants to States. These new levels are set to fulfill our commitment of providing 40 percent of the national average of educating a child.

Even though I am pleased with a lot of what is contained in this conference report, I still have concerns about some of the provisions.

I don't want this bill to be the next ''No Child Left Behind Act''—a bill that has great promise, but a bill that Congress and the President fails to fully fund. The gains in this reauthorization will be for naught unless this Congress backs up this bill with the appropriations necessary.

While changes have been made to the original House bill, we need to make sure that the Department of Education does the enforcement necessary to make sure students are not punished for behavior that is caused by their disability. I think we should all agree that under no circumstance should a child be punished for the behavior that has been caused by their disability.

This bill goes a long way to ensuring all students the education opportunities they deserve. I expect that this conference report will pass by a wide margin. I ask my colleagues to remember your vote today when it comes to actually appropriating funding for this bill. Today we make a commitment to disabled students across this country, let's not forget them during future votes on educational funding.

Mr. LANGEVIN. Mr. Speaker, I rise today to congratulate my colleagues on the bipartisan agreement on special education and in support of the conference report on H.R. 1350. This agreement is an example of what we can achieve when we place the interests of our Nation's children, parents, and teachers before politics. In particular, I want to note the leadership of Chairman BOEHNER and Ranking Member MILLER on this issue. On this bill, and several other pieces of legislation this year, they have been devoted advocates for children with disabilities.

The Individuals with Disabilities Education Act—known as IDEA—is a civil rights law. It establishes that every child has a right to a free and appropriate public education. As a nation, we have long held sacred the belief that education is a path to success, a way for any individual to rise above challenging circumstances and achieve his or her dreams. I can personally attest to the fact that this rings true in a special way for children with disabilities. Education is essential to leveling the playing field for children who face obstacles in life at an early age. By recognizing that they have contributions to make and dreams to fulfill, IDEA offers these children the hope and promise that they can become fully productive members of society.

For these reasons, it has been my top priority to preserve the philosophy behind IDEA and ensure that teachers and administrators are given the appropriate resources to carry out this law. I did not support the bill that came before the House of Representatives in the spring of 2003, because it failed to preserve safeguards for students with disabilities in instances where behavior problems may be a manifestation of their disability. I also felt strongly that clear standards for special education teachers must be established and enforced; as they have been for other teachers under No Child Left Behind. I felt that we could do better for our children with disabilities.

I am delighted that negotiations between the House and the Senate have resulted in a final product that does better. The conference report that we are voting on today represents compromises by both Republicans and Democrats; as such, it represents a clear willingness to work together toward a future where all children receive a high quality education in our Nation's public schools. This legislation maintains the protections for children with disabilities in the discipline process, reaffirms their right to due process, and recognizes that highly trained professionals make all the difference in providing an appropriate education for any student.

In the upcoming Congress, we will celebrate the 30th anniversary of IDEA. How appropriate that a law which began as a bipartisan agreement to commit federal resources to the educational needs of students with disabilities is being reauthorized today in such an atmosphere of cooperation between both parties.

We have made much progress in these last 30 years—the majority of children with disabilities are now being educated in their neighborhood schools in regular classrooms with their nondisabled peers, and college enrollments among individuals receiving IDEA services have sharply increased. We must continue to work to level the playing field for all students. It is my sincere hope that this collaborative spirit and commitment to children with disabilities is reflected in the appropriations process and future legislation that offers the promise of the American dream to our more vulnerable citizens. Let us take this reauthorization process to pave the way to ensuring the full funding of IDEA, giving schools and teachers the

resources they need to meet the goals for each and every child in their classrooms.

I urge all my colleagues to support the conference report to H.R. 1350.

Mr. VAN HOLLEN. Mr. Speaker, I rise today in support of this conference report to reauthorize the Individuals with Disabilities Education Act.

Let me at the outset thank Chairman BOEHNER, Subcommittee Chairman CASTLE, our ranking member, Mr. MILLER, and our subcommittee ranking member, Ms. WOOLSEY—along with our Senate colleagues, the rest of the conferees and their staff—for all of the hard work and long hours that went into producing this agreement today.

This is not a perfect bill. But it is a significant improvement over the House IDEA bill that I and most of my colleagues on this side of the aisle felt compelled to oppose in April 2003, and I believe it represents the best outcome that could reasonably have been expected in our current legislative environment.

In particular, I am pleased to see that this legislation restores some of the protections afforded to children with disabilities that the House-passed IDEA bill would have taken away. Moreover, I fully support the stepped-up monitoring and enforcement authority granted the Secretary of Education under this bill. And I believe the compromise reached with respect to certifying highly qualified special education teachers is a good one.

However, while the conference report adopts the Senate's 7-year authorization path to full funding, I remain concerned that the FY 2005 Omnibus Appropriations bill we will soon be considering will once again fall short of the $12.3 billion authorized to fund this critical law. This is the 30th year in a row we have failed to meet our IDEA funding obligations—a record I consider to be an enduring disgrace. For that reason, I believe more than ever that we should make IDEA funding mandatory and place it on a near term, certain path to completion.

Toward that end, the very first bill I introduced in the 108th Congress—the Keep Our Promises To America's Children and Teachers (PACT) Act—would have fully funded IDEA as well as the No Child Left Behind law. In the 109th Congress, I intend to make the Keep Our PACT Act the very first bill I introduce again, and I invite all of my colleagues to join with me in that effort.

Mr. BLUMENAUER. Mr. Speaker, the Reauthorization of Individuals with Disabilities Education Act conference report is an improvement on the current program. I have been committed to fulfilling the Federal Government's promise of funding at least 40 percent of the IDEA program like it was intended during its enactment in 1975. Even though this bill does not immediately do that, it will by 2011. I am glad Congress was able to work in a bipartisan manner for our children's future. I hope we all keep faith with the spirit of this legislation.

This legislation contains new opportunities to make the program work better for students, parents, teachers, and schools. It provides opportunities for parents and schools to address concerns before the need for due process hearings and fosters parental involvement in an Individual Education Plan. The conference report also provides quality service and instruction at all stages, from early childhood through high school.

Now it is up to the future Congresses to live up to the promises of this legislation and provide the funding to fulfill these programs.

Mr. GEORGE MILLER of California. Mr. Speaker, I also want to point out one oversight. A sentence in the Statement of Managers' language of the Conference Report that provided the explanation for the attorneys' fees language was inadvertently left out. By adding at Note 231 sections detailing the limited circumstances in which LEAs and SEAs can recover attorneys' fees, specifically Sections 615(i)(3)(B)(i)(II) and (III), the Conferees intend to codify the standards set forth in Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978). According to Christiansburg, attorneys' fees may only be awarded to defendants in civil rights cases where the plaintiff's claims are frivolous, without foundation or brought in bad faith.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support H.R. 1350, the reauthorization of the Individuals with Disabilities Education Act. IDEA is a fundamental civil rights program that provides funds to states for the education of children with disabilities. As the world of education faces the challenge of leaving no child behind, this program takes on extra importance. Children with disabilities should have as much opportunity as any child to reach and even exceed their potential. However, since 1975, Congress has placed yet another unfunded mandate on local communities. Since IDEA became law, Congress has authorized spending of up to forty percent of the cost of the average per pupil expenditure on special education. We in Congress have failed to meet that commitment time after time. Fiscal Year 2004 meets 18.6 percent of that commitment, not even half of what we have promised. And this represents the highest percentage since the law was passed.

As a former teacher, member of a school board, State Senator, and now Congressman, I have heard for years from numerous local officials, school administrators, and teachers about the burden IDEA has placed on their budgets and their classrooms. Our communities are dedicated to meeting their moral obligation to provide an appropriate public education for children with disabilities, but they must face the difficult decisions of cutting nonessential school programs like arts, music, and sports or raising property taxes. They would not be faced with these decisions if the federal government lived up to its promises and obligations.

At the beginning of this Congress, I introduced legislation, H.R. 823, to fully fund IDEA now because we have abdicated our responsibility to fund this mandate for three decades. While I feel strongly that we should reach full funding sooner rather than later, I am pleased that H.R. 1350 provides a timeline towards full funding by 2011. However, I worry that the omnibus appropriations bill that we will be voting on later today will fail to meet the figure authorized for Fiscal year 2005 in the legislation we now debate. I hope the positive legislating that we partake in now will be remembered later today and in the coming years when IDEA funding is debated.

While we may focus on the financial impact of this legislation, it has many important educational and moral implications. It aims to improve the collaboration between parents, administrators, educators, and students to provide the best possible education. This legislation will help schools better identify students with disabilities and get help to them sooner. It reduces unnecessary paperwork for teachers so they can spend more time teaching and aims to cut down on litigation between parents and school districts with early, effective dispute resolution. The conferees wisely removed controversial discipline provisions from the House bill while still achieving the goal of improved and streamlined disciplinary procedures.

Yet, despite all the good provisions in this bill, the fact remains that Congress and the President have a moral obligation to live up to what has been promised and neglected for so long. Yet, once again, Congress and the President are neglecting their moral obligation to live up to their words.

In conclusion, Mr. Speaker, I hope this bill achieves its goal of improving special education and truly leaving no child behind. However, I am cynical that the goal of full funding will be reached in the timeline provided by this bill. You can be assured that IDEA will be on my mind later today when voting on the omnibus appropriations bill for Fiscal Year 2005 and that I will continue to be a strong advocate and a active voice for children with disabilities.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of the final version of this bill to renew the Individuals with Disabilities Education Act (IDEA).

As the only former State schools chief serving in Congress. I know firsthand the tremendous challenges facing our schools, teachers, parents and students when it comes to educating disabled children. This legislation includes a number of positive provisions that will help students with disabilities and the educators who serve them. Specifically, I am pleased that this final version of the bill will enhance the focus on professional development, early intervention, and paperwork reduction.

I commend my colleagues for working in a bipartisan manner, an all-too-infrequent-occurrence in this Congress, to achieve a consensus bill. No legislation is perfect, and this bill is no exception. Specifically, this falls short on making good on the promise of the Federal Government to fund 40 percent of the costs of educating disabled children. I will continue to make this effort a high priority in the next Congress.

Last year, I voted against the House version of H.R. 1350 because of its failure to improve current law regarding the education of disabled children. I again commend the conferees on this legislation for producing a final product worthy of support.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. BOEHNER. 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 397, nays 3, not voting 32, as follows:

[Roll No. 537]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—3

Flake
Garrett (NJ)
Paul

NOT VOTING—32

Berry
Cannon
Collins
Conyers
Cunningham
Dunn
Feeney
Frost
Gephardt
Hoeffel
Johnson, Sam
Kaptur
Kleczka
Lipinski
Matsui
McCarthy (NY)
McDermott
Meehan
Millender-McDonald
Murtha
Musgrave
Norwood
Quinn
Rahall
Rothman
Sanders
Saxton
Toomey
Velázquez
Weldon (PA)
Weller
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1149

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CUNNINGHAM. Mr. Speaker, I was unavoidably detained and was not present for rollcall vote 537, on agreeing to the Conference Report for H.R. 1350 to reauthorize the Individuals with Disabilities Education Act. Had I been present, I would have voted "yes."

Mrs. McCARTHY of New York. Mr. Speaker, on November 19, 2004, I missed rollcall vote No. 537 due to surgery. Rollcall vote 537 was on final passage of the conference report on H.R. 1350, the Individuals with Disabilities Education (IDEA) Improvement Act. Had I been present I would have voted "yes" on rollcall vote 537.

Mr. SAXTON. Mr. Speaker, on rollcall 537, adoption of the Conference Report on H.R. 1350, to authorize the Individuals with Disabilities Education Act, I was not present. I was attending the funeral of a fallen soldier. Had I been present, I would have voted "aye."

CORRECTING ENROLLMENT OF H.R. 1350, INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004

Mr. BOEHNER. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 524) directing the Clerk of the House of Representatives to make certain corrections to the enrollment of H.R. 1350, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

Ms. WOOLSEY. Mr. Speaker, reserving the right to object, although I do not intend to object, I yield to the gentleman for an explanation of his request.

Mr. BOEHNER. I thank my colleague for yielding. This concurrent resolution allows the Enrolling Clerk to make a technical correction to the conference report on H.R. 1350.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 524

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) Modify section 674(c)(1)(D) of the Individuals with Disabilities Education Act, as amended by section 101 of the Individuals with Disabilities Education Improvement Act of 2004, by striking ''and secondary schools'' and inserting '', secondary schools, postsecondary schools, and graduate schools''.

(2) Modify section 612(a)(14) of the Individuals with Disabilities Education Act, as amended by section 101 of the Individuals with Disabilities Education Improvement Act of 2004, by—

(A) redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following:

''(C) QUALIFICATIONS FOR SPECIAL EDUCATION TEACHERS.—The qualifications described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school is highly qualified by the deadline established in section 1119(a)(2) of the Elementary and Secondary Education Act of 1965.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

AMERICAN HISTORY AND CIVICS EDUCATION ACT OF 2004

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5360) to authorize grants to establish academies for teachers and students of American history and civics, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5360

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 ''American History and Civics Education Act of 2004''.

SEC. 2. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS; CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—The Secretary of Education (referred to in this Act as the ''Secretary'') may award not more than 12 grants, on a competitive basis—

(1) to entities to establish Presidential Academies for Teaching of American History and Civics that may offer workshops for both veteran and new teachers of American history and civics; and

(2) to entities to establish Congressional Academies for Students of American History and Civics.

(b) APPLICATION.—An entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) DEMONSTRATED EXPERTISE.—The Secretary shall require that each entity, to be eligible to receive a grant under this section, demonstrate expertise in historical methodology or the teaching of history.

(d) AVAILABLE FUNDS.—To carry out this section, the Secretary may use any funds appropriated for fiscal year 2005 or any subsequent fiscal year to carry out part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.).

SEC. 3. NATIONAL HISTORY DAY PROGRAM.

The Secretary may award grants to the National History Day Program for the purpose of continuing and expanding its activities to promote the study of history and improve instruction.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. 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. 5360.

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

There was no objection.

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

Today the House will consider H.R. 5360, the American History and Civics Education Act of 2004. This bill, which was introduced by my colleague from Mississippi (Mr. WICKER), is intended to support programs that will help raise student academic achievement by improving the knowledge, understanding and appreciation of American history and civics education for our Nation's teachers and students.

According to the 2001 National Assessment of Educational Progress assessment in United States history, 33 percent of students in grades 4 scored below basic, 36 percent of students in grade 8 scored below basic, and 57 percent of students in grade 12 scored below basic.

In addition, the data from the assessment revealed that 92 percent of students in grade 12 could not explain the most important cause of the Great Depression, 91 percent of students in grade 8 could not list two issues that were important in causing the Civil War, and 73 percent of the students in grade 4 could not identify the Constitution from among four choices as the document that contains the basic rules used to run the United States Government.

Accordingly, H.R. 5360 is designed to improve student academic achievement in American history and civics education by authorizing the Secretary of Education to use existing funds to award grants to entities to establish Presidential Academies for Teaching of American History and Civics to help strengthen the teaching skills and knowledge of teachers in American history and civics. H.R. 5360 also authorizes the use of existing funds at the Department of Education for Congressional Academies for Students of American History and Civics to help broaden secondary students' knowledge of American history and civics.

Finally, this legislation authorizes the Secretary to use existing funds to award grants to the National History Day program to promote the study of history and improve instruction. The purpose of H.R. 5360 is to help our Nation's students and teachers develop a deeper understanding and appreciation of American history and civics education. I urge my colleagues to support the legislation.

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

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

Mr. Speaker, I support this bill. Just as an aside, I would like to say, as a Member of Congress, if there is any subject I wish I had paid more attention to, it would have been American history. I support this bill, which improves history and civics education, primarily by funding workshops for history teachers. It recognizes the importance of teaching our children history and allows for Federal support for an effective and widely respected program, National History Day.

This bill creates both Presidential Academies for Teaching of American History and Civics and Congressional Academies for Students of American History and Civics. I am pleased that it will ensure that these are quality programs by ensuring that grants are awarded only to those who have demonstrated expertise in historical methodology or the teaching of history.

A very important feature of this legislation authorizes the Secretary of Education to award grants to the National History Day program, a highly successful, year-long national program that trains teachers and sponsors a national competition among junior high and high school students. They produce dramatic performances, imaginative exhibits, multimedia documentaries and research papers based on research related to an annual theme.

The National History Day program, which reaches 2 million people annually from nearly every State, teaches students important literacy skills and engages them in the use and understanding of museum and library resources. It inspires students to study local history and challenges them to expand their thinking and apply knowledge of local events to national and, at times, international issues. The program also teaches students to become technologically literate through the use of computer and Internet research methods and the use of technologically advanced applications in their presentations.

For more than 25 years, National History Day has used history to help students develop research, thinking and communication skills. I am pleased that this bill would help continue and expand its important activities.

All Americans benefit from a better understanding of history, and this bill is a positive step toward ensuring that future generations have the background and tools for appreciating history and applying those lessons to our daily lives.

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

Mr. CASTLE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Mississippi (Mr. WICKER), sponsor of this legislation in the House of Representatives, himself one who cares deeply about history.

Mr. WICKER. Mr. Speaker, I want to thank my friend from Delaware as well as my friend from California for their remarks so far in this debate. I also want to thank the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), who, Mr. Speaker, has been enormously patient and helpful to me during this year-long effort to promote better knowledge of American history and civics. Thanks also goes to the ranking member of the full committee as well as the entire House leadership. I am very appreciative.

Mr. Speaker, we meet today in a Chamber that exhibits a magnificent portrait of George Washington just to my left. We meet at a location actually selected by George Washington, the father of our country. Just above the Speaker's podium is a profound quote from another of our distinguished patriots, Daniel Webster. We are governed today by rules promulgated in part by Thomas Jefferson, the author of the Declaration of Independence and another of our great founders.

In that atmosphere, Mr. Speaker, it is perhaps hard for us to imagine that not everyone in our country shares our appreciation for this great system of government and this wonderful tradition and history of freedom and independence that we have in America or has even a rudimentary knowledge of that great system of government. Yet, sadly, as I talk to my colleagues about this issue, they have observed the same thing as they travel around the country that I have: an appalling, even shocking, lack of knowledge about American history and our American system. This is particularly true among our young people.

Just a few facts, Mr. Speaker. Sixty-two percent of Americans today cannot name the three branches of the Federal Government. An examination was given to seniors in 55 of our Nation's top colleges and universities, including Brown, Harvard and Princeton. The exam contained 34 questions, multiple choice, testing a high school level of proficiency on American history. Some 81 percent of the seniors in these colleges received either a D or an F on these examinations. Seventy-five percent of our high school seniors are not proficient in American history and civics, and one-third lack even a basic knowledge of this subject matter.

Part of the reason for this, Mr. Speaker, is that the curriculum at these same 55 elite universities does not require an American history course for graduation and 78 percent require no history credit at all to graduate from the best colleges and universities in our land. As a result of this fact, over one-half of our high school history teachers received their college degrees in subjects other than history.

□ 1200

This is not their fault, Mr. Speaker. This is simply a fact which we are trying to address today.

Simply put, what this bill does, as my friend from Delaware stated, is to authorize the Secretary of Education to award competitive grants from existing funds for summer academies that would promote civics and history education. The grants would be available to colleges and universities, to museums, libraries, nonprofit organizations, some of which are already engaged in this type of activity, and other entities that can demonstrate the capability to enhance the subject matter.

The sessions for teachers would focus on new ideas and more creative ways to communicate the history and civics curriculum to students. It would not dictate a curriculum. Separate academies for students would provide a unique and more comprehensive look at the important subjects of civics and education.

I would say to the Members in closing, Mr. Speaker, that this legislation has the support of a wide spectrum of Americans, from Paul Weyrich and Bill Bennett on the right, to Senator TED KENNEDY at the other end of the political spectrum. I think it simply demonstrates this: that knowledge and understanding of America and Americanism really has no ideology.

I again express my thanks to the leadership of the committee and of House of Representatives, and I urge a ''yes'' vote on the bill.

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

Mr. CASTLE. Mr. Speaker, I urge support of the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 5360, 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.

DIRECTING SECRETARY OF SENATE TO CORRECT ENROLLMENT OF S. 150

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 146) to direct the Secretary of the Senate to make corrections in the enrollment of the bill, S. 150.

The Clerk read as follows:

S. CON. RES. 146

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 150) to extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, the Secretary of the Senate shall make the following corrections:

(1) Amend subsection (a) of section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note), as added by section 3 of the bill, to read as follows:

''(a) PRE-OCTOBER 1998 TAXES.—

''(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

''(A) the tax was authorized by statute; and

''(B) either—

''(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

''(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

''(2) TERMINATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply after November 1, 2007.

''(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

''(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

''(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclause (i) is a State tax—

''(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

''(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.''.

(2) Insert after section 6 of the bill the following:

SEC. 6A. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 6, is amended by adding at the end the following:

''SEC. 1109. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.

''Nothing in this Act shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the definition of access line as determined by the Public Utility Commission of Texas in its 'Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing', issued March 5, 2003, in Project No. 26412.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. 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. Con. Res. 146 currently under consideration.

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

There was no objection.

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

Mr. Speaker, the enrolling resolution before us from the other body makes some modest, but important, changes to S. 150, a bill to extend the moratorium on Internet access taxes and multiple and discriminatory Internet taxes, which we will consider in a few minutes. When we move to that bill, I will describe the underlying legislation. For now I will just state that the changes made by this enrolling resolution are necessary in order for me to support passage of S. 150.

The most important change to S. 150 contained in the enrolling resolution is that it will apply the same moratorium on Internet access taxes to my home

State of Wisconsin that applies to at least 40 other States. Beginning in November of 2006, the special grandfathered status enjoyed by Wisconsin since 1998 that allows the State to continue to tax Internet users will end, and my State like most every other State will have to abide by the Internet tax moratorium and stop taxing Wisconsinites' Internet service.

The House passed legislation reported by the Committee on the Judiciary, H.R. 49, that would have ended the special grandfathered status of all the 1998 States effective immediately.

The section of language added to S. 150 by this enrolling resolution affecting grandfathered taxation is intended to apply to all States that have imposed Internet access taxes via an administrative ruling made well after the 1998 moratorium was enacted that taxes Internet access as a telecommunications service. I find this type of ex post facto attempt to circumvent the general moratorium without new State legislative action to be offensive. However, out of the 1998 grandfathered States, I believe only Wisconsin's actions today meet the requisite objective criteria in this provision. Therefore, only Wisconsin will find its 1998 grandfather status revoked by this language.

The other change contained in the resolution adds a new section to the bill that would clarify that certain taxes and fees imposed by Texas municipalities are not included within the scope of the moratorium on Internet access and that such Texas municipalities could continue to collect franchising and right-of-way fees when telecommunications companies build infrastructure and use public rights of way. We believe that this provision clearly only applies to Texas.

Mr. Speaker, I urge Members to extend the Internet tax freedom once again to most of our citizens and join me in supporting this concurrent resolution and the underlying bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 146.

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

A motion to reconsider was laid on the table.

INTERNET TAX NONDISCRIMINATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 150) to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

The Clerk read as follows:

S. 150

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 ''Internet Tax Nondiscrimination Act''.

SEC. 2. FOUR-YEAR EXTENSION OF INTERNET TAX MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

''(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes during the period beginning November 1, 2003, and ending November 1, 2007:

''(1) Taxes on Internet access.

''(2) Multiple or discriminatory taxes on electronic commerce.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

''(10) TAX ON INTERNET ACCESS.—

''(A) IN GENERAL.—The term 'tax on Internet access' means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

''(B) GENERAL EXCEPTION.—The term 'tax on Internet access' does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.''.

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,''.

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting ''The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting ''The term 'Internet access' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

''SEC. 1104. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

''(a) PRE-OCTOBER 1998 TAXES.—

''(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

''(A) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

''(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

''(2) TERMINATION.—This subsection shall not apply after November 1, 2007.

''(b) PRE-NOVEMBER 2003 TAXES.—

''(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

''(A) a provider of Internet access services had a reasonable opportunity to know by virtue of a public rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; and

''(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

''(2) TERMINATION.—This subsection shall not apply after November 1, 2005.''.

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''SEC. 1106. ACCOUNTING RULE.

''(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

''(b) DEFINITIONS.—In this section:

''(1) CHARGES FOR INTERNET ACCESS.—The term 'charges for Internet access' means all charges for Internet access as defined in section 1105(5).

''(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term 'charges for telecommunications services' means all charges for telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

''SEC. 1107. EFFECT ON OTHER LAWS.

''(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

''(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

''(2) in effect on February 8, 1996.

''(b) 911 AND E–911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E–911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E–911 services.

''(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.''.

SEC. 6. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 5, is amended by adding at the end the following:

''SEC. 1108. EXCEPTION FOR VOICE SERVICES OVER THE INTERNET.

''Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or similar service utilizing Internet Protocol or any successor protocol. This section shall not apply to any services that are incidental to Internet access, such as voice-capable e-mail or instant messaging.''.

SEC. 7. GAO STUDY OF EFFECTS OF INTERNET TAX MORATORIUM ON STATE AND LOCAL GOVERNMENTS AND ON BROADBAND DEPLOYMENT.

The Comptroller General shall conduct a study of the impact of the Internet tax moratorium, including its effects on the revenues of State and local governments and on the deployment and adoption of broadband technologies for Internet access throughout the United States, including the impact of the Internet Tax Freedom Act (47 U.S.C. 151 note) on build-out of broadband technology resources in rural under served areas of the country. The study shall compare deployment and adoption rates in States that tax broadband Internet access service with States that do not tax such service, and take into account other factors to determine whether the Internet Tax Freedom Act has had an impact on the deployment or adoption of broadband Internet access services. The Comptroller General shall report the findings, conclusions, and any recommendations from the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce no later than November 1, 2005.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act take effect on November 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. 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. 150, the Senate bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, I rise today in support of S. 150, the Internet Tax Nondiscrimination Act.

In 1998, Congress passed the Internet Tax Freedom Act to protect the Internet from crippling taxation and piecemeal regulation. The act prohibited States from imposing multiple and discriminatory taxes on electronic commerce and shielded consumers from new Internet access taxes. However, some States that had already begun taxing on Internet access by 1998 were allowed to continue such taxation temporarily.

During the 107th Congress, we extended the moratorium until November 1, 2003. On July 24, 2003, well before the November expiration deadline, the House Committee on the Judiciary reported H.R. 49, the Internet Tax Nondiscrimination Act. Introduced by the gentleman from California (Mr. COX), H.R. 49 made permanent the ban on taxes that targeted the Internet for discriminatory treatment and immediately ended all taxes on Internet access by all States and localities.

Unlike the Senate bill, H.R. 49 also eliminated the so-called grandfather clause for States that taxed Internet access prior to October 1, 1998; and through a bipartisan amendment offered in subcommittee by the gentleman from Utah (Mr. CANNON) and the gentleman from North Carolina (Mr. WATT), the House bill preserved the original intent of the law by not punishing broadband users, then providing tax freedom for all forms of Internet access, whether by dial-up, cable, or DSL line. H.R. 49 passed the House by voice vote on September 17, 2003. Unfortunately, the other body was unable to pass legislation extending the moratorium until April 29, 2004, 6 months after the moratorium expires.

The Senate bill differs from H.R. 49 in several ways. First, rather than a permanent moratorium, it creates a temporary 4-year moratorium on Internet access taxes running retroactively from November 1, 2003, until November 1, 2007. Secondly, it extends the 1998 grandfather clause for the life of the moratorium so that all those States currently taxing Internet access will continue to do so with the one notable exception of Wisconsin, which I already addressed fully when we considered the related enrolling resolution.

□ 1215

Third, it creates a new, 2-year grandfather clause for States that tax Internet access after the expiration of the moratorium.

Despite these weaknesses which I believe to be substantial, passing the Senate bill extending the Internet tax moratorium is still a big win for the vast majority of American Internet users. Without any action by this Congress, Internet commerce would still be subject to State and local taxes in thousands of jurisdictions. The digital economy and its participants are more vulnerable if we do not act, even if we must act on a weaker bill.

For those reasons I support passage of S. 150, which will extend the benefits of the moratorium until 2007.

At this time, let me put everyone on notice that in the next Congress, even though the moratorium does not expire during the life of the 109th Congress, I will attempt, once again, to make this moratorium permanent so that no State, when it puts together its budget in January of 2007, will fall into the trap of counting Internet access taxes as revenue.

The bill, together with the enrolling resolution just passed, will at least temporarily protect against those States and localities taxing our e-mail and taxing Web service. The extension of the moratorium will help vitalize the Internet economy, provide tax relief to consumers no matter how they get their Internet access, and will stimulate equal access to this increasingly important medium. I will continue to assess future avenues that will promote greater Internet access at higher speeds and at less cost for all Americans. Let everybody be on notice that that is going to happen sooner rather than later.

For now, I urge my colleagues to join me in supporting S. 150 and making the Internet a less taxing and more productive experience.

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

Mr. WATT. Mr. Speaker, I yield myself such time as I may consume, which will be a very short amount of time, just to make two points.

Number one, the chairman of my committee and I have served so long together that he did not even flinch when I was debating a bill that I thought was all part of one big parcel, because he has seen me many times debate something that we were not discussing in committee, so it did not come as any surprise to him at all. He did not even flinch.

So I think on that what I will do is roll the statement that I read on S. 150 into this debate. That was the discussion on the last bill. I thought we were doing this, all this part and parcel of one big bill here, rather than in two stages. So I hope I can just roll that last statement on to this debate and save myself from having to read it again.

Second, I would just say to the gentleman on his ''do not surprise us in the next Congress'' that I think there has been a long-term agreement and commitment to making the Internet exempt from taxation a permanent moratorium. The thing that has held that up is that, at the same time, States and local governments have wanted to work out a national uniform system for taxing remote sales that take place over the Internet so that they do not lose substantial revenues from that source. So I think if we could come up with a system to put into place some uniform standards for taxation of remote sales over the Internet, making the moratorium on Internet access would be a no-brainer and a very noncontroversial step.

So I would hope that I would be able to join the chairman of the full committee in supporting a permanent moratorium on Internet access taxes, but I would be able to do that only if we can work out this other deal having to do

with putting in place a taxation system for taxation of remote sales that are taking place over the Internet.

Because what is happening now is that brick and mortar retailers in all of our communities are collecting sales taxes on sales that are taking place in those brick and mortar stores and, at the same time, people are able to buy over the Internet the same product and be exempt from paying taxes on it because there is no uniform way for collecting those taxes at remote locations. That is costing local governments and State governments in some cases enormous amounts of tax revenues, because most of them are supported by sales taxes or local property taxes, and this is eroding a primary base of tax income for local communities and State communities.

So if we can get that part of this equation worked out, I think the chairman would see a virtual landslide of support for making the moratorium on Internet access a permanent moratorium, and I would be right in the lead of the march with my chairman, and I hope he will join us in trying to make that happen in the next term of Congress.

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

Mr. Speaker, I rise in support of S. 150, the Internet Tax Nondiscrimination Act, and urge my colleagues to support its passage. It has been a long journey to get here, but I believe that the compromise forged in the Senate preserves the goals we sought here in the House both at the subcommittee and full committee levels.

Specifically, S. 150 extends the existing moratorium against taxes on Internet access by all State and local governments, including those that were previously grandfathered by the Internet Tax Freedom Act, and there is a new grandfather for States that imposed taxes on access to the Internet until November 1, 2005. Although this bill will necessarily result in the potential loss of some revenue to some States, it will promote the continued development, emergence, and widespread access to the Internet; and it will do so in a fair and technologically neutral manner.

During the proceedings on this bill in the House, I, together with the gentleman from Utah (Mr. CANNON), the chairman of the Subcommittee on Commercial and Administrative Law, on which I am the ranking member, offered an amendment to help clarify the meaning of Internet access and to put an end to the current confusion that has led to discriminatory and inconsistent State taxation on Internet access. The bill before us today represents a compromise on that amendment which is supported by the relevant stakeholders, including the industry and the State and local government representatives.

The principle I pursued in offering the amendment was simple: If we are to prohibit taxes on Internet access, we must do so regardless of how that access is provided. Otherwise, we would give a competitive advantage to those providers covered by the moratorium over those providers that remain subject to taxation. This would limit the choices of consumers and raise the cost of alternative means of accessing the Internet such as DSL. By making the moratorium applicable to all Internet service providers, we have created a level playing field for the consumer. In the process, we have had no intention to otherwise undermine State and local telecommunications tax bases.

With this issue now behind us if we pass this bill, this Congress must turn to the issue of State sales and use taxes. I, along with the gentleman from Massachusetts (Mr. DELAHUNT) and other colleagues on our subcommittee, have insisted throughout our deliberations to ban Internet access taxes that we remain mindful of the fiscal crisis currently confronting many of our States. Toward that end, the States' attempt to establish a unified tax system that would enable them to impose and collect sales taxes on transactions over the Internet in a manner that is fair and manageable has progressed; and I believe that during the next term of Congress we will be able to work toward a sensible solution to solve the remote sales tax issue when remote sales are taking place over the Internet.

In closing, I believe that S. 150 will ensure that the ban on Internet access taxes is neutral as to technology, speed, and provider. I urge my colleagues to vote in favor of this bill.

I thank the gentleman for his hard work on this and certainly thank the gentleman from Utah (Mr. CANNON), my subcommittee Chair, in his absence, for the tremendous amount of work he has put into this issue.

Mr. Speaker, I have no further requests for time either on S. Con. Res. 146, which I thought I was debating the last time, or on S. 150, which I understand we are debating now, so I will be happy, unless the chairman wants to promise me he is going to work with me on this remote sales tax issue and wants to have a dialogue about that, I am happy to yield back the balance of my time, or yield to the chairman if he wants to comment on it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds to say that access taxes and remote sales tax collections are two separate issues. It is like apples and oranges, and when you mix apple juice and orange juice in the same concoction, frequently it is not very tasty. But we will deal with both of those issues and consider them in the next Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX), the author of H.R. 49.

Mr. COX. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and thanks also to the gentleman from Michigan (Ranking Member CONYERS) for the Committee on the Judiciary's staunch leadership on this issue. Special thanks also to the chairman of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary, the gentleman from Utah (Mr. CANNON), and, of course, to the Ranking Member, the gentleman from North Carolina (Mr. WATT), the author of a critical amendment to this bill which makes it explicit that the Internet tax moratorium provides consumers with tax freedom from all forms of Internet access, regardless of the technology, wired or wireless, broadband or dial-up, or any pathway yet to be invented.

While I am proud to be the author of the Internet Tax Freedom Act, which created the Internet tax moratorium in 1998, and the Internet Tax Nondiscrimination Act, which passed this Congress unanimously last year, this is the work of a great bipartisan team led on the Senate side by GEORGE ALLEN of Virginia and my original moratorium coauthor, who was then a member of the House, RON WYDEN of Oregon, and by President Bush who urged this Congress to extend this most valuable of consumer protections from taxation.

Republicans and Democrats have come together to say that, no matter how we might choose to fund government services, we all agree that the worst way to do it would be to create new taxes on the Internet. That would be harmful to consumers, destructive to technological innovation, and bad for our economy.

The case for allowing Internet access to remain tax-free has never been stronger. With 200 million Americans now online, a new tax on access would be a tax on working families. Our citizens recognize the danger. Eighty-eight percent of Americans oppose new Internet access taxes. So one might say that this legislation, the Internet Tax Freedom Act and the Internet Nondiscrimination Act, this moratorium, are the most popular tax issues in America.

New Internet taxes would also be highly destructive to the American economy. Studies from the Brookings Institution, the University of California, Harvard, Stanford, MIT, the Congressional Budget Office, the Department of Commerce, and the Federal Reserve all confirm the positive role of the Internet in making Americans more productive. New taxes can only slow this valuable and powerful engine of our economy and job growth, productivity and prosperity in America.

Finally, Mr. Speaker, the United States of America needs to regain world leadership in encouraging other countries around the world to keep taxes off of the World Wide Web. The Internet is truly global commerce. The original Internet Tax Freedom Act instructed the executive branch to negotiate bilateral understandings with

other countries, and our executive branch has done so. During the period of time when this moratorium was expired, America could hardly lead when our own policy was not clear that we forbid taxation of the Internet. Now we are back where we belong in our role of world leadership, and the Bush administration can once again resume with confidence negotiations with other countries to make sure that when we go online it is not just other foreign states that will not be taxing you, your Internet activities will not be prey to predatory tax policies from other countries as well.

Mr. Speaker, I urge all Members to vote yes on this excellent legislation, S. 150, and yes on the enrolling resolution. I thank the chairman for this great success for consumers.

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

Mr. Speaker, I would just like to assure the gentleman from California (Mr. COX) that he did not really say anything that I disagree with. Neither did the chairman say anything that I disagree with.

I agree that taxation of Internet access and taxation of remote sales are like apples and oranges. But both of them have economic impact on State and local communities, and just because they are apples and oranges does not mean that they do not have an economic impact. So what has been keeping this from moving forward is that if you take away the Internet access issue and you do not resolve the remote sales issue, then local and State communities are being doubly impacted in some cases, and they would like us to resolve both of those issues. They do not necessarily want us to mix orange juice and apple juice together, but they do want us to be able to drink apple juice at one point and drink orange juice at the other point, and they are not mutually exclusive, and they have a similar impact in local communities.

So I am in full agreement that we ought to make this moratorium permanent on Internet access. I am supporting both of these bills, and I do not think there is any controversy about that.

My only point is we also need to now roll up our sleeves in this next term of Congress and resolve the remote sales tax issue so that we can put all of this to rest, and then we can drink both apple juice and orange juice and enjoy both of them in due course.

Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. PICKERING. Mr. Speaker, I rise today for two reasons: First, to support S. 150, ''The Internet Tax Nondiscrimination Act,'' and, second, to clarify a mischaracterization of a provision of S. 150 that has appeared in the media and perhaps in the minds of some of my colleagues concerning the affect of S. 150 on Voice over Internet Protocol or VoIP.

First, I support passage of S. 150 and commend my colleagues in both the House and the Senate for working vigorously to forge a compromise that addresses, albeit in a temporary fashion, the most important issue we face today concerning what's been termed the ''digital divide''—bridging the gap between those who have Internet access and those who do not by protecting such access for all Americans from overburdensome taxation by a multiplicity of State and local governments that would directly and substantially inhibit the growth and expansion of this still relatively young technology. This bill extends until November 2007 the current moratorium that prohibits States, or their political subdivisions, from taxing Internet access or imposing multiple or discriminatory taxes on electronic commerce. Both houses of Congress also compromised on the treatment of States who had been taxing Internet access even before 1998 when Congress passed the Internet Tax Freedom Act. The grandfathered status of those States to continue taxation of Internet access will be extended for 3 more years under S. 150. While I support the compromise we are voting on today because it accomplishes our intent to prohibit State and local taxation of Internet access in the interim, I still firmly believe that we should permanently prohibit State taxation of Internet access in the future. However, I do look forward to working with our State, county, and city leaders in the future to address the broader issue of taxation of goods and services over the Internet. Everyone recognizes that the Internet knows no borders, domestically or globally, and we should treat it as such by permanently prohibiting an estimated 30,000 different jurisdictions nationwide from imposing taxes on Internet access and stifling this innovative technology that has become not only a useful informational, educational, and recreational technology for most Americans but also an economical necessity for our business community.

Second, and more importantly for my purposes as the lead sponsor in the House of H.R. 4129, the ''VoIP Regulatory Freedom Act of 2004,'' S. 150 as passed by the Senate contains a provision specifying that Voice-over-Internet-Protocol (''VoIP'') services are not covered by the moratorium. That provision states:

SEC. 1108. EXCEPTION FOR VOICE SERVICES OVER THE INTERNET.

Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or similar service utilizing Internet Protocol or any successor protocol. This section shall not apply to any services that are incidental to Internet access, such as voice-capable e-mail or instant messaging.

While it has been misreported in the media and possibly misconstrued by others that this provision somehow specifically authorizes or requires the taxation of VoIP by States, nothing could be farther from the truth. This exception merely provides that the moratorium makes no inference as to the tax treatment of voice services provided over the Internet. Even Senator PATRICK LEAHY, Ranking Member of the Senate Judiciary Committee, has acknowledged the same when he stated during debate of S. 150 on the Senate floor on April 29, 2004, that ''the McCain amendment [S. 150] . . . does not affect the emerging technology of Voice over Internet Protocol, VoIP.'' This provision does not authorize State and local governments to impose a tax on customers or require the collection of the tax by vendors. Nor does it provide that state and local taxes currently apply to VoIP services. Whether these services meet the definition of taxable telecommunications or other services under state and local statutes is a question of law and will be determined at a future date by Congress.

VoIP services as transactions in electronic commerce should not be burdened by the multiple and discriminatory taxes that States and localities currently apply to telecommunications services. The Federal Communications Commission (FCC) has recently ruled that VoIP is inextricably interstate by its very nature and therefore States are specifically prevented from regulating the type of VoIP provided by Vonage Holdings Corporation. However, the FCC specifically expressed no opinion on the applicability of State general laws governing entities conducting business within the State, such as laws concerning taxation, to VoIP providers. The FCC's decision, however, has ensured an environment in which VoIP can develop, prosper and grow to provide more choices for consumers and a more competitive communications industry. The FCC's decision also has ensured a greater degree of market certainty, will encourage investment, will create jobs and will prevent a misguided approach to regulating VoIP. The drafters of S. 150 had the same intent and goals in mind. In the House, 61 members joined me in sending a letter to the FCC on October 5, 2004, calling on the Commission to rule that VoIP is an interstate application and thus subject to FCC jurisdiction. The letter, signed by a bipartisan majority of the House Energy and Commerce Committee, urged a ruling that VoIP is interstate in nature and subject to the Commission's exclusive jurisdiction.

I mention all this to make the point that, because S. 150 does not determine the taxable treatment of VoIP, the issue will be dealt with in the near future in Congress where I believe, based upon the facts and goals espoused above, that a majority of both houses will agree that taxation and regulation of VoIP, if any, should be left to the Federal Government. To avoid any confusion for the future, our approval of S. 150 today does not in any way imply any support for taxation of VoIP by the States or the Federal Government. The provision was merely inserted to clarify that the moratorium does not make a decision concerning the taxability of VoIP.

Again, thanks to all those involved in this great legislative accomplishment and I look forward to working with my colleagues here in Congress to address the issues of VoIP and taxation in the near future.

Mr. SMITH of Texas. Mr. Speaker, I support S. 150, the Internet Tax and Nondiscrimination Act.

This legislation would reinstate the moratorium on Internet access taxation and multiple or discriminatory taxes on electronic commerce for three years.

Internet commerce is still relatively new and has yet to reach its full potential. The imposition of taxes would threaten the future growth of e-commerce and would discourage companies from using the Internet to conduct business. Internet taxation would create regional and international barriers to global trade.

The Internet is also a major source of information and resources for many individuals and families. Taxes could make Internet access unaffordable for some Americans. Our goal should be to encourage and promote Internet access.

Americans should be able to access the Internet without being subject to state and local taxes.

□ 1230

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 150.

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.

RECOGNIZING THE BOY SCOUTS OF AMERICA FOR PUBLIC SERVICES PERFORMED ACROSS THE UNITED STATES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 853) recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States.

The Clerk read as follows:

H. RES. 853

Whereas the Boy Scouts of America is one of the leading volunteer youth movements in the United States, serving more than 4,700,000 young people with the support of 1,200,000 volunteer adult leaders;

Whereas the Boy Scouts of America was incorporated on February 8, 1910, and recognized by Federal charter on June 15, 1916, to provide an educational program for youth to build character, train in the responsibilities of participatory citizenship, and develop personal fitness;

Whereas the Boy Scouts of America teaches the core values of duty to God and country, personal honor, respect for the beliefs of others, volunteerism, and the value of service and doing a ''good turn'' daily, principles which are conducive to good character, citizenship, and health; and

Whereas during the 95-year history of the Boy Scouts of America, the organization has partnered with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations to address critical issues facing communities in the United States, including the problems of hunger, inadequate housing, and poor health and youth obesity: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States; and

(2) commends the Boy Scouts of America for the Good Turn for America program and the work the organization has accomplished while partnering with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations across the United States to address critical issues facing communities in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. 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. 853.

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

There was no objection.

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

Mr. Speaker, I rise today in support of House Resolution 853, recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States.

Despite the widespread respect the Boy Scouts of America have earned over their long history, the Boy Scouts have been and continue to be the targets of strident legal attacks simply because religious faith is part of the scouting program.

The purpose of the Boy Scouts of America, incorporated on February 8, 1910, and chartered by this Congress in 1916, is to provide an educational program for boys and young adults to build character, to train in the responsibilities of citizenship, and to develop personal fitness. The community-based organizations receive national charters they use to integrate the Scouting program into their own youth work.

These groups, which have goals compatible with those of the Boy Scouts of America, include religious, educational, civil, fraternal, business and labor organizations; governmental bodies; corporations; professional associations; and citizens' groups.

Several Presidents of the United States, including John F. Kennedy and Gerald R. Ford, have been ex-Scouts. Of the 108th Congress, 264 Members, nearly half the entire congressional membership, participated in Scouting. Membership in the Scouts since 1910 totals more than 110 million. As of December 31, 2003, the Boy Scouts of America included 3.2 million youth members and 1.2 million adult members.

The Scout Law sets forth 12 guiding principles, providing that a Scout is ''trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.'' With regard to the final principle, the Scout Law says, ''A Scout is reverent. A Scout is reverent toward God. He is faithful in his religious duties. He respects the beliefs of others.'' All Boy Scouts must know and subscribe to the Scout Oath and Law, which embodies not only the ideals of Scouting but also those of our great Nation.

While many religious organizations charter Scouting units, Boy Scouts of America prohibits them from requiring boys who belong to other denominations or faith to take part in or observe their religious ceremonies. Rather, the Boy Scouts of America encourages its youth members to practice their religious beliefs as directed by their parents and their spiritual advisors.

In Boy Scouts of America vs. Dale, the Supreme Court held that ''during the time spent with the youth members, the scoutmasters and assistant scoutmasters inculcate them with the Boy Scouts' values, both expressly and by example. It seems indisputable that an association that seeks to transmit such a system of values engages in expressive activity.''

Whenever the Boy Scouts are singled out for unfavorable treatment because of their viewpoint, very serious constitutional issues are raised. And this Congress will do everything in its power to uphold the Boy Scouts' constitutional rights.

Despite affirmation of the Scouts' first amendment right of expressive association by the Supreme Court in the Dale case, the Boy Scouts have been attacked on a variety of legal fronts.

In 1999 the American Civil Liberties Union filed suit against the United States Department of Defense, the United States Department of Housing and Urban Development, and the Chicago School Reform Board of Trustees claiming that governmental support of the Boy Scouts violates the establishments clause because the Boy Scouts require a belief in God as a condition of membership. This lawsuit seeks to remove virtually all government support of the Boy Scouts of America.

Additionally, though the Supreme Court affirmed the Scouts' freedom of expressive association in the context of setting membership standards, the Scouts have been excluded from participating in Connecticut's charitable giving program for choosing to express this right.

The Scouts are also under attack in the city of San Diego. For decades the Scouts have used San Diego park property pursuant to a lease agreement with the city. However, the use of this property is currently in jeopardy due to claims by activist groups that the Scouts' use of the property violates the establishment clause.

The Scouts have also had to fight for equal access to school facilities for after-hour use. Shortly after the Supreme Court's decision in Dale, the Broward County School Board in Florida unanimously voted to exclude the Boy Scouts of America from utilizing school facilities for after-school use simply because of the Boy Scouts' religious principles, even though, for many years prior to this, the local arm of the Scouts had enjoyed the after-hours use of many Broward school facilities and numerous other organizations continued to use the school facilities.

Throughout the history of the Boy Scouts of America, the Boy Scouts have provided services to others, gathering food and clothing for needy

neighbors, building playgrounds, repairing parks and public buildings, assisting fire and police departments, and aiding disaster victims. In the days following September 11, Boy Scouts across the country collected food and other necessities for the victims' family and rescue workers and helped to rally the patriotism of the country by handing out flags and holding candlelight vigils.

Practically every Member of this body, Mr. Speaker, has been invited and participated in Eagle Scout ceremonies. I have been at a number of them, and it is a recognition of the good kids in our society that in my opinion do not get enough recognition. But in order to become an Eagle, every Scout has to do some type of community service project. And if the Scout does not do that, the Scout does not attain the highest rank, which is Eagle status. And it would be a shame if the Boy Scouts ended up being sued to death and, thus, the communities that benefit from all of these Eagle projects, as well as the projects that Scouts of lower rank participate in, would not be available.

We need the Boy Scouts now more than ever. And this Congress will do whatever it takes to make sure their vital spirit continues to inspire and strengthen America and its youth. I rise today in support of House Resolution 853, and I will rise in support of future efforts to protect the Boy Scouts whenever they or any other organization face unfair discrimination.

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

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise as a Silver Beaver recipient and a member of the board of directors of the Houston-Galveston Boy Scouts of America. I also am a member of this body and recognize that there is diversity of opinion and thought and process and also in many instances the interpretation of the Constitution. But I rise today to recognize that we have the kind of embracing support for H. Res. 853 and recognizing the young men that engage in Boy Scout programs throughout America.

Let me first say that we in this country should be very proud that we have the kind of young people who are willing in their very young age to become a part of a civic organization that provides service. And so this resolution recognizes that service.

I would just offer to my colleagues the list of service activities, probably so many of them in your community that we see Boy Scouts engaged in. For example, ''Habitat Fills in the Missing Pieces on Dallas Street,'' and this article shows Boy Scout Troop 1077 going about their activities and helping to rebuild communities, young men, if you will, that are not even voting age at this time.

Then when we have looked at the question of homeland security, we see another article suggesting something that I am very committed to, preparedness in our neighborhoods. Boy Scouts of America helped launch a national preparedness month, and they are here with Secretary of Homeland Security Tom Ridge because it is the Boy Scouts who understand preparedness and understand first aid and understand organizational skills that are very key and can be very key in helping us to secure our neighborhoods.

Of course, all of us have heard about aiding hurricane victims, and we have another release that talks about 200 Boy Scouts aiding Hurricane Charley victims. So we know that this is an opportunity for young people to learn not only their civic duty but to participate in it.

Let me share with you a personal story on the Boy Scouts. I think it is a program that has now taken some national wings, and that is what we call Urban Scouting. Some years ago in Houston we started this program with T-shirts and having youngsters from the inner city come and do Boy Scouts programs in the parks. That was the only place that they had; and unlike other units that had parents and maybe other kinds of facilities, we used paid Scouters, professionals, to help us with the Urban Scouting program. I am very proud to say that today it has in our community hundreds of members, maybe up to thousands of members, now with their uniforms; our programs are in our schools.

I would venture to say that we understand that there is a balance in expressing your constitutional right to be free from various church and State issues, but we also know that we must have a balance. So this resolution charges this Congress with having a balance. I would say that this program, the Good Turn for America program, is a key element of the work that we do with the Boy Scouts. Through the Good Turn for America program, thousands of young people have worked with organizations such as Habitat for Humanity, have worked to aid victims of Hurricane Charley, have volunteered to feed the poor, and have worked to become good citizens by serving their communities.

So it is appropriate, Mr. Speaker, that we join with our colleagues in recognizing the fact that the Boy Scouts do good work for us.

I will say that I welcome the Boy Scouts to Washington, D.C., or the region, and I welcome them for their annual jamboree. The reason why I say that is because sometimes we do take personal privilege and I want to acknowledge Wheeler Avenue Boy Scouts Troop in Houston, Texas, and thank them for allowing and helping my young man, Jason Lee, become the Eagle Scout that he is today. I thank them for allowing him to participate in the jamboree, and for those insiders, Philmont Camp in New Mexico.

This is a training process for the leaders of today and also for tomorrow. So I think it is important for us to join in this resolution and to commend the ideals of the Boy Scouts and of course the results of the Boy Scouts. I join with my neighbors and friends and my colleagues in commending the public spirited work of these young people throughout the Nation. There is no higher ideal than serving your community. By helping their neighbors they are making themselves better citizens. These young people deserve to be commended for their work.

Mr. Speaker, this resolution commends the Boy Scouts for their work in our communities through the ''Good Turn for America'' program.

Through the Good Turn for America program thousands of young people have worked with organizations such as Habitat for Humanity, have worked to aid victims of Hurricane Charley, have volunteered to feed the poor, and have worked to become good citizens by serving their communities.

I want to join my colleagues in commending the public spirited work of these young people throughout the Nation. There is no higher ideal than serving your community. By helping their neighbors, they are making themselves better citizens. These young people deserve to be commended for the good work.

200 BOY SCOUTS AID CHARLEY VICTIMS

On Saturday morning, August 21st, at 5 a.m. over 200 Boy Scouts in Palm Beach County departed from Boca Raton's Town Center Mall for Florida's devastated west to provide disaster relief services for the victims of Hurricane Charley. Boys and adults from nine troops drove 16 vehicles, including five trucks loaded with food and supplies to Arcadia to serve three meals to those left homeless by the storm.

The Boy Scout relief effort, organized by Tom Ehrbar II, a Boca Raton businessman and longtime Scouting supporter, carried contributions of food from Wholesum Bread, Johnsonville Bratwurst, Cheney Bros. Foods, and other local vendors to the Arcadia disaster area. The Boy Scouts served 1,000 breakfasts, 1,500 lunches, and over 1,500 dinners to the beleaguered residents of Arcadia. The Scouts also carried personal care items for distribution.

Once in Arcadia, the Boy Scouts assisted the local disaster relief personnel in whatever tasks needed attention: assisting in construction of temporary housing, providing logistical support, or communications, states Eagle Scout Thomas Ehrbar III, son of the project organizer. Weyerhouser has donated lumber supplies for that effort.

The Scouts kicked off Good Turn for America, a nationwide program of community service provided by the Boy Scouts for the communities they serve. Hurricane Charley arrived in Florida on the eve of that program kickoff.

[September 9, 2004]

BOY SCOUTS OF AMERICA HELP LAUNCH NATIONAL PREPAREDNESS MONTH

When the Department of Homeland Security wanted to send a message about the importance of ''being prepared'' at the launch of National Preparedness Month in Washington, DC, they turned to the Boy Scouts of America.

Eagle Scout Tucker Barbour of Troop 500, chartered to the Capitol Hill Scouts in Washington, DC, introduced Secretary of Homeland Security Tom Ridge at the kickoff event on the grounds of the United States Capitol.

Barbour was joined on stage by Scouts and leaders from the National Capital Area Council and representatives of the Girl Scouts.

The Boy Scouts of America is part of a coalition of organizations assembled by the Department of Homeland Security to promote September as National Preparedness Month. The emphasis is intended to provide Americans with a variety of opportunities to learn more about ways they can prepare for an emergency, get an emergency supply kit, establish a family communications plan, and become better aware of threats that may impact communities.

The event was attended by honorary National Preparedness Month co-chairs Senators Susan Collins (R–ME) and Joseph Lieberman (D–CT) and Representatives Christopher Cox (R–CA) and Jane Harman (D–CA), as well as American Red Cross President and CEO Marsha Evans and leaders of more than 80 other organizations to announce hundreds of events focused on preparedness across the country. Following the event, the Scouts distributed emergency preparedness kits to members of Congress.

To support National Preparedness Month, the Boy Scouts of America is encouraging Scouts and volunteers to focus on earning the Emergency Preparedness BSA Award. The award was developed at the request of the Department of Homeland Security and introduced in 2003.

HABITAT FILLS IN THE MISSING PIECES ON DALLAS STREET—VOLUNTEERS BUILD HOMES THAT DEVELOPER WAS UNABLE TO FINISH

(By Kim Homer)

The residents of Pinebrook Drive just watched their neighborhood go through a makeover.

And it took only nine days.

On Saturday, Habitat for Humanity volunteers finished building 22 new three-bedroom homes there on the short street near Bonnie View and Simpson Stuart roads on lots that had stood vacant for years.

Hundreds of volunteers planted flowers, installed mailboxes and put the last bricks on the attractive homes with front porches Saturday.

A developer ran out of money to finish building homes on Pinebrook Drive a few years ago. That left gaps of missing houses. Toney Lemons, who has lived on the street since 1974, said he didn't mind all the construction work and traffic—which police came to direct at times—since it was for a good cause.

''Everybody needs somewhere to stay,'' Mr. Lemons said, adding that he'll be happy as long as his new neighbors take care of their properties like he does.

Nora Hernandez, who will move in down the street, was so excited about her new place she couldn't eat the lunch provided for volunteers on Saturday.

''It's perfect,'' she said of the home. ''It's beautiful.''

The 31-year-old single mother will move her three young children from a cramped one-bedroom Arlington apartment to her new three-bedroom home in July.

Ms. Hernandez, who works as a packer in a Grand Prairie plastics factory, said she's thrilled to become a homeowner. She has looked into buying a house before but found she could not afford one.

''It's a big opportunity for families like mine,'' she said. Ms. Hernandez said her mortgage will be slightly less than her rent of $485 a month. Her children, ages 8, 7 and 2, will be able to have separate bedrooms for the first time, she said.

Ms. Hernandez said she learned about the program from her friend and co-worker, Juanita Acosta. Ms. Hernandez told Ms. Acosta that she was hosting a birthday party at her house for one of her children.

''I said, 'Where?'' said Ms. Acosta, who couldn't imagine her friend had enough room to host the celebration.

Now that Ms. Hernandez knows about Habitat for Humanity, she said she wants to return the favor by spreading the word about the program to others who may not realize they can apply.

Ms. Acosta, who lives in a Pleasant Grove house built by Habitat for Humanity, took a week's vacation to help build her friend's home. The two friends have been putting up walls, painting and sweeping as part of the ''sweat equity'' homeowners must contribute in exchange for no-interest, $60,000 mortgages.

In all, about 3,500 volunteers pitched in during the building blitz. They came from 20 churches, 11 businesses and other organizations, including 300 AmeriCorps volunteers who traveled from throughout the nation.

Ronald Denham of Victoria, Texas, was one of the workers from AmeriCorps, which gives participants a small living allowance in exchange for community service.

''I believe there's a need and I'd wanted to do this for years,'' said Mr. Denham, 67, a retired court reporter.

Volunteers from Dallas-based Home Interiors and Gifts put a finishing touch of a wreath on each house on Saturday. The company sponsored one of five homes built by all-women crews as part of Habitat for Humanity's Women Building program.

''The home is a haven,'' said Carol Eichinger, the company's director of communications, who worked on the house. ''But first you have to have a house to decorate.''

Filling in 22 empty lots with new houses turned Pinebrook Drive into a whole new place for current and incoming residents, said Fred Hoster, director of development for Dallas Area Habitat for Humanity. Habitat built 19 homes on the street more than two years ago, so now the nonprofit organization has built a majority of the homes there.

Mr. Hoster said he expects private for-profit homebuilders will expand on what Habitat started in that area. Then, he said, he hopes new stores and restaurants will follow in the neighborhood that lacks many retail businesses. Mr. Hoster said he's confident the surrounding area will have a new look in a few years.

''We build neighborhoods,'' he said. ''All the neighbors already know each other because they've worked on each others' houses.''

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA), the author of this resolution.

Mr. ISSA. Mr. Speaker, I thank the chairman for bringing this important resolution to the floor in a timely fashion, and I say ''timely'' because an organization that on a bipartisan basis enjoys so much support to be under attack on a daily basis as we speak is an organization that needs our attention.

In 1916 when the Congress chartered the Boy Scouts, it did so in recognition of their contribution in their early days. But as we hear today that nearly or actually over half of the male Members of Congress are here today in no small part because of their participation in Boy Scouts, what we see is a ratio of success that comes from the Boy Scouts, that comes from the kind of training they provide to both urban and rural America. That is what we are here to defend today.

This resolution is, as the chairman so aptly said, one step in a dedication that we have on a bipartisan basis to defend the Boy Scouts' ability to continue the fine work they have done for nearly a century.

As a San Diegoan I am acutely aware of just how easily outside organizations objecting to what the Boy Scouts stand for could lead to the end of Scouting as we know it.

□ 1245

So I want to, once again, thank the chairman for bringing this important resolution to the floor in this Congress. I have no doubt that we will take up these issues and more in the next Congress, but as a former Boy Scout, somebody who, if I owe anyone the ''thank you for being here today,'' it was, in fact, for a Christian Arab young man to be in a Jewish Boy Scout troop, to be around the kind of openness and thinking that was available to me as a Scout, coming every week to an orthodox temple to understand the values of the world, not the values of Christianity, not the value of Judaism but the values of the world and the people of the world.

So, once again, Mr. Speaker, I urge the unanimous support of this resolution, and I ask all my colleagues to vote with the chairman, with myself, with the ranking member in favor of H. Res. 853.

Mr. Speaker, I rise today in support of House Resolution 853 which honors the Boy Scouts of America, for the public service the organization performs for neighborhoods and communities across the United States.

I would like to thank Chairman SENSENBRENNER, the Judiciary Committee staff, the Majority Leader and his staff for their hard work to bring this measure to the floor.

For 95 years, the Boy Scouts of America have made outstanding contributions to citizenship, service, and leadership.

The stated purpose of the Boy Scouts of America, incorporated on February 8, 1910, and chartered by Congress in 1916 is to provide an educational program for boys and young adults to build character, to train in the responsibilities of citizenship, and to develop personal fitness.

More than 50 percent of congressional members participated in Scouting either as a scout or a scout leader.

As I stand here today, the City of San Diego is facing litigation that would force the city to stop supporting the activities of the Boy Scouts and void a long-standing lease under which the Boy Scouts operate their headquarters in city-owned Balboa Park.

The Boy Scouts of America was founded on the premise of teaching boys moral and ethical values through an outdoor program that challenges them and teaches them respect for one another and themselves.

Scouting has always represented the best in community, leadership, and service.

The Boy Scouts of America relies on dedicated volunteers to promote its mission of preparing young people to make moral and ethical choice over their lifetime by instilling the values of the Scout Oath.

Mr. Speaker, this resolution is an expression of Congress' appreciation for Scouts, volunteer leaders, and employees of the Boy Scouts of America.

I ask my colleagues to join me in supporting this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my great pleasure to yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS), someone who understands the importance of opportunities for young men and has been a leader on these issues.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to join with the gentleman from Wisconsin (Chairman SENSENBRENNER); with the gentlewoman from Texas (Ms. JACKSON-LEE), the ranking member of the subcommittee; with the gentleman from California (Mr. ISSA), the sponsor of this legislation; and all of the others who have come to provide recognition of the public service that is performed by the Boy Scouts of America.

I can agree that there can be disagreements and there can be examination of practices, but the Boy Scouts of America have been one of the most prolific organizations in the development of boys into men that I know about in this country.

As one who served for 12 years as the scouting commissioner in my community, there was no sight one would rather see than 2- or 300 young boys at a blue and gold dinner or to see the 500 Scouts who used to participate in parades and other activities that we would put on.

So, in addition to the community service that they provide, I commend the Scouts for developing boys into men, and I am pleased to join in support of this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

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

Mr. HAYWORTH. Mr. Speaker, I thank my colleague, the chairman of the Committee on the Judiciary, for yielding me the time.

As an Eagle Scout, I rise in strong support of this resolution and am heartened by the bipartisan outpouring of support for the Boy Scouts of America, as mentioned earlier, a movement that was chartered federally by this very Congress early in the 20th century. While we today reiterate our support for the scouting movement, as my colleague from California, the sponsor of this resolution, noted, scouting is under attack.

The American Civil Liberties Union filed a nuisance lawsuit against the Pentagon saying that somehow sponsorship of Scout troops on military bases violates the doctrine of separation of church and State. Mr. Speaker, that is a nuisance lawsuit, and I am sorry the Defense Department attorneys decided to surrender to the ACLU.

Mr. Speaker, I have written Secretary Rumsfeld asking him to countermand the decision of the Pentagon lawyers. Scouting values, military values, citizenship values, a respect and reverence for our Creator is not a violation of the doctrine of separation of church and State. So I hope those who join us in support of this resolution will likewise join us to say to the Pentagon attorneys, take down the white flag of surrender, do not give up on scouting, and we remain poised to take further measures to ensure that our government institutions follow the will of the people and the sentiment of the Congress.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes 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 rise today in support of this resolution and support, of course, of the Boy Scouts of America.

As mentioned, they have had 90 years of history here helping young men, young boys build character and train them in the responsibility of participating in citizenship. The Boy Scouts teach these boys and young men that there is a higher good, something outside of themselves within each of them they should strive to achieve.

We have heard, for example, from the chairman of millions of American boys and young men who participate in the Boy Scouts, including Gerald Ford, Hank Aaron, Ross Perot, Jimmy Stewart, Neil Armstrong. They all have benefited tremendously from belonging to and participating in the Boy Scouts.

As such, it is altogether fitting that we recognize the Scouts for all the public service and all the charitable work they have done over the years.

But Congress also has a responsibility to defend the Boy Scouts from the relentless attacks on it from various government entities and interest groups. For example, the ACLU is suing to challenge the Federal Government's longstanding support for the Boy Scouts. Do my colleagues realize also the ACLU also currently sued for the right of a nudist camp for children to open?

Recently, the Department of Defense has agreed to no longer officially sponsor the Scouts on military bases. Why? Because the Scouts' oath mentions God. This is not the first time the Boy Scouts have come under attack for their oath or their membership policies, even though the Supreme Court and the American people are on the side of the Boy Scouts.

The ACLU has led the charge against the Scouts in States like Connecticut and cities like San Diego to defund this important organization, take away their campsites and treat them as though they are hate groups. This campaign against the Scouts is truly wrong. It is about time we do something about it.

Mr. Speaker, I urge my colleagues to support this resolution and any other efforts to protect the Boy Scouts of America.

Ms. JACKSON-LEE. Mr. Speaker, I yield myself such time as I may consume.

I believe I have no further speakers, Mr. Speaker, and I would just simply say, let me add my appreciation and applause to the sponsor of this legislation, the gentleman from California (Mr. ISSA), but also to all of the volunteers and parents and community citizens, businesses that contribute to the Boy Scouts of America across the Nation.

As well, let me thank the Houston-Galveston Council on Boy Scouts in our community and as well maintain the fact of the valuable asset that Boy Scouts and their programs represent in the United States of America.

I ask for support.

Mr. SOUDER. Mr. Speaker, H. Res. 853 may be the most self-evident resolution this body has considered in the 108th Congress. It is a bill to recognize the good service of the Boy Scouts of America. One would think we might as well consider a resolution recognizing the good service of motherhood and apple pie.

But, Mr. Speaker, as we near the end of 2004 we have to come to understand that some Americans do not believe in the good works of the Boy Scouts of America. In fact, there are those who believe that the very existence of the Boy Scouts of America does not deserve recognition by the Federal Government.

Although such a disposition may appear to be shocking at first, it is the mind-bending logical conclusion of an effort that seeks to isolate groups like the Boy Scouts. The American Civil Liberties Union, ACLU, released the details of a legal settlement with the U.S. Department of Defense, DoD, this Tuesday, November 16, 2004. In this ongoing case, the ACLU has sued DOD and U.S. Department of Housing and Urban Development, HUD, for sponsoring the Boy Scouts of America, thus, in the opinion of the ACLU, breaching the Constitution's separation of church and state. While the settlement reached by the ACLU with DOC seems benign, the attack upon our country's cultural institutions cannot be ignored.

While purporting to defend Liberty, the ACLU and its allies promote an agenda that discriminates against religion and blocks the People from helping those who help others. You see, the Boy Scouts of America have the word ''God'' in their oath. While the Scout Oath also contains words like honor, moral, and country, the ACLU is concerned that religion is intruding upon the rights of the American people because Department of Defense employees have long worked with the Boy Scouts of America for community events.

Mr. Speaker, I serve as the chairman of the Criminal Justice, Drug Policy and Human Resources Subcommittee of the Committee on Government Reform. Through my subcommittee, the ranking member, ELIJAH CUMMINGS, and I have held eight hearings in the last 2 years on the provision of services by faith-based and community groups. In a field

hearing we held on January 23, 2004, in Los Angeles, CA, the subcommittee heard from a witness who explained the simple yet weighty impact the use of government property would be for groups like his. Keith Phillips is the founder and president of World Impact, a nonprofit, faith-based organization ''designed to transform the lives of the urban poor.'' For groups like Mr. Phillips', the use of buses for weekend trips can be the difference in helping the children of the urban poor. He suggested at our hearing that the Federal Government allow groups like his to use their buses on the weekend. He explained that government can help World Impact help other Americans, ''Give us facilities where we can run clinics, thrift stores, recreational activities. Help us provide better transportation for the urban poor to camps, conferences and schools by giving us the use of government vehicles like buses on weekends.''

Mr. Speaker, our Department of Defense, not to speak of other federal departments, operate hundreds, probably thousands of buses. The first legal step has been taken to prevent these buses from ever being used by the Boy Scouts or by groups like World Impact. I hope this House takes leaps toward helping groups like these. I hope this House takes steps to help DOD and other branches of the Federal Government help these people help their fellow Americans. I hope we stand up for the religious liberty of Americans against those who would discriminate against religiously oriented Americans.

I rise with my colleagues of the House in recognizing the good service of the Boy Scouts of America. Though H. Res. 853 would appear to be a simple resolution for this body to consider, I believe we are forced to defend the Boy Scouts and all other service organizations that would be falsely challenged in their service of other Americans. Let us unanimously pass H. Res. 853, and honor the ideals of the Scout Oath:

On my honor I will do my best
To do my duty to God and my country
and to obey the Scout Law;
To help other people at all times;
To keep myself physically strong,
mentally awake, and morally straight.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back my time.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 853.

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. SENSENBRENNER. 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.

THRIFT SAVINGS PLAN OPEN ELECTIONS ACT OF 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4324) to amend title 5, United States Code, to eliminate the provisions limiting certain election opportunities available to individuals participating in the Thrift Savings Plan, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4324

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

SECTION 1. ELECTIONS FOR THRIFT SAVINGS PLAN CONTRIBUTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Thrift Savings Plan Open Elections Act of 2004''.

(b) IN GENERAL.—Section 8432(b)(1)(A) of title 5, United States Code, is amended—

(1) in the first sentence—

(A) by inserting ''(i)'' before ''The Executive Director''; and

(B) by striking ''shall be afforded a reasonable period every 6 months to elect to'' and inserting ''may'';

(2) by striking the second sentence; and

(3) by adding at the end the following:

''(ii) An election to make contributions under this paragraph—

''(I) may be made at any time;

''(II) shall take effect on the earliest date after the election that is administratively feasible; and

''(III) shall remain in effect until modified or terminated.''.

(c) CONTINUATION OF NOT MAKING IMMEDIATE AGENCY CONTRIBUTIONS.—Section 8432(b)(4)(C) of title 5, United States Code, is amended—

(1) by inserting ''(i)'' after ''(C)''; and

(2) by adding at the end the following:

''(ii) Notwithstanding subparagraph (A) or (B), contributions under paragraphs (1) and (2) of subsection (c) shall not begin to be made with respect to an employee or Member described under paragraph (2)(A) or (B) until the date that such contributions would have begun to be made in accordance with this paragraph as administered on the date preceding the date of enactment of the Thrift Savings Plan Open Elections Act of 2004.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM PARTICIPATION.—Section 8351(a)(2) of title 5, United States Code, is amended by striking ''only during a period'' and inserting ''as''.

(2) CONTRIBUTIONS BY PREVIOUSLY INELIGIBLE EMPLOYEES.—Section 8432(b)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by striking ''second period'' and inserting ''date'';

(B) in subparagraph (C), by striking ''second period'' and inserting ''date''; and

(C) in subparagraph (D) by striking ''other than during a period afforded'' and inserting ''as provided''.

(3) PROVISION OF INFORMATION.—Section 8439(c)(2) of title 5, United States Code, is amended by striking ''at least 30 calendar days before the beginning of each election period under section 8432(b)(1)(A) of this title'' and inserting ''on a regular basis''.

(4) JUSTICES AND JUDGES.—Section 8440a(a)(2) of title 5, United States Code, is amended by striking ''only during a period'' and inserting ''as''.

(5) BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 8440b(a)(2) of title 5, United States Code, is amended by striking ''only during a period'' and inserting ''as''.

(6) COURT OF FEDERAL CLAIMS JUDGES.—Section 8440c(a)(2) of title 5, United States Code, is amended by striking ''only during a period'' and inserting ''as''.

(7) JUDGES OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.—Section 8440d(a)(2) of title 5, United States Code, is amended by striking ''only during a period'' and inserting ''as''.

(8) MEMBERS OF THE UNIFORMED SERVICES.—Section 8440e(b)(2)(A) of title 5, United States Code, is amended—

(A) by striking ''only during a period'' and inserting ''as''; and

(B) by striking all after section ''8432(b)'' and inserting a period.

SEC. 2. ENHANCING FINANCIAL LITERACY.

(a) IN GENERAL.—The Federal Retirement Thrift Investment Board (in this section referred to as the ''Board'') shall periodically evaluate whether the tools available to participants provide the information needed to understand, evaluate, and compare financial products, services, and opportunities offered through the Thrift Savings Plan. The Board shall use these evaluations to improve its existing education program for Thrift Savings Plan participants.

(b) REPORT ON FINANCIAL LITERACY EFFORTS.—The Board shall annually report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on its Thrift Savings Plan education efforts on behalf of plan participants.

(c) STRATEGY.—As part of the retirement training offered by Office of Personnel Management under section 8350 of title 5, United States Code, the Office, in consultation with the Board, shall—

(1) not later than 6 months after the date of enactment of this Act, develop and implement a retirement financial literacy and education strategy for Federal employees that—

(A) shall educate Federal employees on the need for retirement savings and investment; and

(B) provide information related to how Federal employees can receive additional information on how to plan for retirement and calculate what their retirement investment should be in order to meet their retirement goals; and

(2) submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the strategy described under paragraph (1).

SEC. 3. TECHNICAL CORRECTIONS.

Subchapter III of chapter 84 of title 5, United States Code, is amended—

(1) in section 8433(d)(1), by striking ''paragraph (3)'' and inserting ''paragraph (2)''; and

(2) in section 8440b(b)—

(A) in paragraph (2), by striking ''bankruptcy judge's or magistrate's'' and inserting ''bankruptcy judge's or magistrate judge's''; and

(B) in paragraphs (4)(B) and (8), by striking ''bankruptcy judge or magistrate'' each place it appears and inserting ''bankruptcy judge or magistrate judge''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. 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. 4324.

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

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4324, a bill that eliminates the open season for employee contributions to the Thrift Savings Plan. This legislation was reported from the Committee on Government Reform by a voice vote on July 31, and I am pleased to see it considered by the whole House today.

Mr. Speaker, as my colleagues know, the TSP offers Federal employees the same retirement savings opportunities that private companies afford their employees under traditional 401(k) plans.

The TSP is the largest defined contribution retirement plan in the world, with nearly three and a half million participants and over $143 billion in assets.

This legislation will allow TSP participants to make or modify their salary contributions at any time. Currently, Federal employees and members of the uniformed services who participate in the TSP are only provided two biannual periods to begin, adjust or end their contributions. This bill will give much-needed flexibility to participants of the Federal Government's retirement plan.

Every day, Federal employees across the Nation and around the globe perform critical duties to keep this Nation running smoothly.

Away from work, they experience all of life's events, births and deaths in the family, new homes, new jobs, salary adjustments and so on. With enactment of H.R. 4324, TSP participants can adopt their retirement savings to meet their changing circumstances.

Next year, I intend to offer additional legislation that will abolish the TSP open seasons entirely, but today, during the second open season after beginning Federal service, participants can earn matching funds up to 5 percent of their salary from their employing agencies. I believe allowing participants to secure these matching funds immediately is an important and deserved incentive for Federal employees to save. The Federal Retirement Thrift Investment Board, which administers the TSP, supports that change, and the Board supports H.R. 4324 as well.

The Committee on Government Reform, the committee of jurisdiction for Federal employee issues, was limited by budget constraints this Congress from moving a bill that would totally eliminate open seasons. Nevertheless, I am pleased to see H.R. 4324 advancing today.

I want to recognize the efforts of my distinguished counterpart in the other body, the gentlewoman from Maine, chairman of the Governmental Affairs Committee. She has worked very closely with me on today's bill to ensure that Federal employees will have the same retirement savings flexibilities enjoyed by many in the private sector.

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

□ 1300

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

Mr. Speaker, the Thrift Savings Plan, TSP, is a retirement savings and investment plan for Federal employees that is governed by the Federal Retirement Thrift Investment Board. The TSP has approximately 3 million participants. It is the largest retirement savings and investment program in the Nation.

H.R. 4324 would make two significant changes to the rules that govern participation in the TSP. First, it would allow Federal employees to alter their TSP contributions at any time instead of limiting such changes to biannual open-season periods.

Secondly, the bill would require the Federal Retirement Thrift Investment Board, the agency that administers the TSP, to evaluate and report on efforts to increase education programs for TSP participants.

Overall, H.R. 4324 would allow TSP enrollees to have more control over their investments and financial future. With better education initiatives, participants would be better informed when changing contributions to their TSP.

With these changes designed to be helpful to those who would participate, I am pleased to join the chairman, the gentleman from Virginia (Mr. TOM DAVIS), and the gentlewoman from Virginia (Mrs. JO ANN DAVIS) in supporting this legislation and urge its passage.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I urge my colleagues to support this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4324, as amended.

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

The title of the bill was amended so as to read: "A bill to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time, and for other purposes.".

A motion to reconsider was laid on the table.

COMPREHENSIVE PEACE IN SUDAN ACT OF 2004

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2781) to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan, and for other purposes, as amended.

The Clerk read as follows:

S. 2781

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 "Comprehensive Peace in Sudan Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).

(3) JEM.—The term "JEM" means the Justice and Equality Movement.

(4) SLA.—The term "SLA" means the Sudan Liberation Army.

(5) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) A comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note) and the Machakos Protocol of 2002, could be in jeopardy if the parties do not implement and honor the agreements they have signed.

(2) Since seizing power through a military coup in 1989, the Government of Sudan repeatedly has attacked and dislocated civilian populations in southern Sudan in a coordinated policy of ethnic cleansing and genocide that has cost the lives of more than 2,000,000 people and displaced more than 4,000,000 people.

(3) In response to two decades of civil conflict in Sudan, the United States has helped to establish an internationally supported peace process to promote a negotiated settlement to the war that has resulted in a framework peace agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan, signed on June 5, 2004.

(4) At the same time that the Government of Sudan was negotiating for a comprehensive and all inclusive peace agreement, enumerated in the Nairobi Declaration on the Final Phase of Peace in the Sudan, it refused to engage in any meaningful discussion with regard to its ongoing campaign of ethnic cleansing and genocide in the Darfur region of western Sudan.

(5) The Government of Sudan reluctantly agreed to attend talks to bring peace to the Darfur region only after considerable international pressure and outrage was expressed through high level visits by Secretary of State Colin Powell and others, and through United Nations Security Council Resolution 1556 (July 30, 2004).

(6) The Government of the United States, in both the executive branch and Congress, has concluded that genocide has been committed and may still be occurring in the Darfur region, and that the Government of Sudan and militias supported by the Government of Sudan, known as the Janjaweed, bear responsibility for the genocide.

(7) Evidence collected by international observers in the Darfur region between February 2003 and November 2004 indicate a coordinated effort to target African Sudanese

civilians in a scorched earth policy, similar to that which was employed in southern Sudan, that has destroyed African Sudanese villages, killing and driving away their people, while Arab Sudanese villages have been left unscathed.

(8) As a result of this genocidal policy in the Darfur region, an estimated 70,000 people have died, more than 1,600,000 people have been internally displaced, and more than 200,000 people have been forced to flee to neighboring Chad.

(9) Reports further indicate the systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves.

(10) Despite the threat of international action expressed through United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), the Government of Sudan continues to obstruct and prevent efforts to reverse the catastrophic consequences that loom over the Darfur region.

(11) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government-sponsored Janjaweed attacks in the Darfur region, the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter.

(12) The Government of Sudan's continued support for the Janjaweed and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be causing up to 10,000 deaths per month and, should current conditions persist, is projected to escalate to thousands of deaths each day by December 2004.

(13) The Government of Chad served an important role in facilitating the humanitarian cease-fire (the N'Djamena Agreement dated April 8, 2004) for the Darfur region between the Government of Sudan and the two opposition rebel groups in the Darfur region (the JEM and the SLA), although both sides have violated the cease-fire agreement repeatedly.

(14) The people of Chad have responded courageously to the plight of over 200,000 Darfur refugees by providing assistance to them even though such assistance has adversely affected their own means of livelihood.

(15) On September 9, 2004, Secretary of State Colin Powell stated before the Committee on Foreign Relations of the Senate: ''When we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring.''.

(16) The African Union has demonstrated renewed vigor in regional affairs through its willingness to respond to the crisis in the Darfur region, by convening talks between the parties and deploying several hundred monitors and security forces to the region, as well as by recognizing the need for a far larger force with a broader mandate.

(17) The Government of Sudan's complicity in the atrocities and genocide in the Darfur region raises fundamental questions about the Government of Sudan's commitment to peace and stability in Sudan.

SEC. 4. SENSE OF CONGRESS REGARDING THE CONFLICT IN DARFUR, SUDAN.

(a) SUDAN PEACE ACT.—It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) ACTIONS TO ADDRESS THE CONFLICT.—It is the sense of Congress that—

(1) a legitimate countrywide peace in Sudan will only be possible if those principles enumerated in the 1948 Universal Declaration of Human Rights, that are affirmed in the Machakos Protocol of 2002 and the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004, are applied to all of Sudan, including the Darfur region;

(2) the parties to the N'Djamena Agreement (the Government of Sudan, the JEM, and the SLA) must meet their obligations under that Agreement to allow safe and immediate delivery of all humanitarian assistance throughout the Darfur region and must expedite the conclusion of a political agreement to end the genocide and conflict in the Darfur region;

(3) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, implement a plan to provide assistance to the areas of Sudan to which access has been obstructed or denied;

(4) the international community, including African, Arab, and Muslim nations, should immediately provide resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the crisis in the Darfur region;

(5) the United States and the international community should—

(A) provide all necessary assistance to deploy and sustain an African Union Force to the Darfur region; and

(B) work to increase the authorized level and expand the mandate of such forces commensurate with the gravity and scope of the problem in a region the size of France;

(6) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should—

(A) condemn any failure on the part of the Government of Sudan to fulfill its obligations under United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004), and press the United Nations Security Council to respond to such failure by immediately imposing the penalties suggested in paragraph (14) of United Nations Security Council Resolution 1564;

(B) press the United Nations Security Council to pursue accountability for those individuals who are found responsible for orchestrating and carrying out the atrocities in the Darfur region, consistent with relevant United Nations Security Council Resolutions; and

(C) encourage member states of the United Nations to—

(i) cease to import Sudanese oil; and

(ii) take the following actions against Sudanese Government and military officials and other individuals, who are planning, carrying out, or otherwise involved in the policy of genocide in the Darfur region, as well as their families, and businesses controlled by the Government of Sudan and the National Congress Party:

(I) freeze the assets held by such individuals or businesses in each such member state; and

(II) restrict the entry or transit of such officials through each such member state;

(7) the President should impose targeted sanctions, including a ban on travel and the freezing of assets, on those officials of the Government of Sudan, including military officials, and other individuals who have planned or carried out, or otherwise been involved in the policy of genocide in the Darfur region, and should also freeze the assets of businesses controlled by the Government of Sudan or the National Congress Party;

(8) the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan, including the Darfur region;

(9) those individuals found to be involved in the planning or carrying out of genocide, war crimes, or crimes against humanity should not hold leadership positions in the Government of Sudan or the coalition government established pursuant to the agreements reached in the Nairobi Declaration on the Final Phase of Peace in the Sudan; and

(10) the Government of Sudan has a primary responsibility to guarantee the safety and welfare of its citizens, which includes allowing them access to humanitarian assistance and providing them protection from violence.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

(a) ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.—

(1) IN GENERAL.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new section:

''SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

''(a) ASSISTANCE.—

''(1) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized to provide assistance for Sudan as authorized in paragraph (5) of this section—

''(A) subject to the requirements of this section, to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region; and

''(B) to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region, provided that no assistance may be made available to the Government of Sudan.

''(2) CERTIFICATION FOR THE GOVERNMENT OF SUDAN.—Assistance authorized under paragraph (1)(A) may be provided to the Government of Sudan only if the President certifies to the appropriate congressional committees that the Government of Sudan has taken demonstrable steps to—

''(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;

''(B) demobilize and disarm militias supported or created by the Government of Sudan;

''(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region;

''(D) allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

''(E) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

''(F) permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence; and

''(G) implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004.

''(3) CERTIFICATION WITH REGARD TO SPLM'S COMPLIANCE WITH A PEACE AGREEMENT.—If the President determines and certifies in writing to the appropriate congressional committees that the SPLM has not engaged in good faith negotiations, or has failed to honor the agreements signed, the President shall suspend assistance authorized in this section for the SPLM, except for health care, education, and humanitarian assistance.

''(4) SUSPENSION OF ASSISTANCE.—If, on a date after the President transmits the certification described in paragraph (2), the President determines that the Government of Sudan has ceased taking the actions described in such paragraph, the President shall immediately suspend the provision of any assistance to such Government under this section until the date on which the President transmits to the appropriate congressional committees a further certification that the Government of Sudan has resumed taking such actions.

''(5) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—In addition to any other funds otherwise available for such purposes, there are authorized to be appropriated to the President—

''(i) $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the fiscal years 2006 and 2007, unless otherwise authorized, to carry out paragraph (1)(A); and

''(ii) $200,000,000 for fiscal year 2005 to carry out paragraph (1)(B), provided that no amounts appropriated under this authorization may be made available for the Government of Sudan.

''(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

''(b) GOVERNMENT OF SUDAN DEFINED.—In this section, the term 'Government of Sudan' means the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of the Comprehensive Peace in Sudan Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).''.

(2) CONFORMING AMENDMENTS.—Section 3 of such Act (50 U.S.C. 1701 note) is amended—

(A) in paragraph (2), by striking ''The'' and inserting ''Except as provided in section 12, the''; and

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

''(4) SPLM.—The term 'SPLM' means the Sudan People's Liberation Movement.''.

(b) REPORTING AMENDMENT.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by striking section 8 and inserting the following:

''SEC. 8. REPORTING REQUIREMENTS.

''(a) REPORT ON COMMERCIAL ACTIVITY.—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State, in consultation with relevant United States Government departments and agencies, shall submit to the appropriate congressional committees a report regarding commercial activity in Sudan that includes—

''(1) a description of the sources and current status of Sudan's financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

''(2) a description of the extent to which that financing was secured in the United States or with the involvement of United States citizens; and

''(3) a description of the relationships between Sudan's arms industry and major foreign business enterprises and their subsidiaries, including government-controlled entities.

''(b) REPORT ON THE CONFLICT IN SUDAN, INCLUDING THE DARFUR REGION.—Not later than 30 days after the date of the enactment of the Comprehensive Peace in Sudan Act of 2004, and annually thereafter until the completion of the interim period outlined in the Machakos Protocol of 2002, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan, including the conflict in the Darfur region. Such report shall include—

''(1) the best estimates of the extent of aerial bombardment of civilian centers in Sudan by the Government of Sudan, including targets, frequency, and best estimates of damage; and

''(2) a description of the extent to which humanitarian relief in Sudan has been obstructed or manipulated by the Government of Sudan or other forces, and a contingency plan to distribute assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur.

''(c) DISCLOSURE TO THE PUBLIC.—The Secretary of State shall publish or otherwise make available to the public each unclassified report, or portion of a report that is unclassified, submitted under subsection (a) or (b).''.

SEC. 6. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) SANCTIONS.—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, notwithstanding paragraph (1) of section 6(b) of the Sudan Peace Act (50 U.S.C. 1701 note), implement the measures set forth in subparagraphs (A) through (D) of paragraph (2) of such section.

(b) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of enactment of this Act, the President shall, consistent with the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of appropriate senior officials of the Government of Sudan.

(c) WAIVER.—The President may waive the application of subsection (a) or (b) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.

(d) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Act, 2004 (division D of Public Law 108–199; 118 Stat. 143), or any other similar provision of law, shall remain in effect against the Government of Sudan and may not be lifted pursuant to such provisions of law unless the President transmits a certification to the appropriate congressional committees in accordance with paragraph (2) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

(e) DETERMINATION.—Notwithstanding subsection (a) of this section, the President shall continue to transmit the determination required under section 6(b)(1)(A) of the Sudan Peace Act (50 U.S.C. 1701 note).

SEC. 7. ADDITIONAL AUTHORITIES.

Notwithstanding any other provision of law, the President is authorized to provide assistance, other than military assistance, to areas that were outside of the control of the Government of Sudan on April 8, 2004, including to provide assistance for emergency relief, development and governance, or to implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

SEC. 8. TECHNICAL CORRECTION.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended by striking ''Organization of African Unity'' and inserting ''African Union''.

The SPEAKER pro tempore (Mr. BASS). Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2781, as amended, the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2781, as amended, imposes some punitive measures listed in the Sudan Peace Act after a 30-day period. The bill also imposes an asset freeze on senior Sudanese officials and calls upon the President to impose a travel ban on senior Sudanese officials, including those responsible for planning and carrying out the genocide in Darfur.

To guarantee a wider international response to the genocide in Darfur, S. 2781, as amended, includes instructions for the U.S. Permanent Representative to the United Nations to urge the Security Council and member states to pursue accountability for those complicit in the genocide in Darfur and to impose targeted sanctions, including the freezing of assets on senior members of the Government of Sudan, and to cease importing Sudanese oil.

The bill also provides humanitarian assistance to Darfur and Eastern Chad, funding to support the African Union mission in Darfur, and assistance in preparing the population for peace. This will give material indication to the Sudanese civilians that they can find meaning and purpose in rebuilding their country after decades of war.

Mr. Speaker, we are beyond the point of threatening the Government of Sudan with punitive measures. Time and again certainly I have been on this floor and many other Members have been on this floor expressing our concern over the situation in Sudan and the intransigence of the Sudanese government to operate in good faith and to

bring an end to the human tragedy on a scale that is almost unimaginable and for which they are greatly responsible. Time and again our efforts have been rebuffed. Time and again we have been forced to go to the next step in order to get the Sudanese government to respond.

Genocide has been and is being committed, we know. We have said it. We now need to show that there are consequences for directing and/or participating in a campaign to destroy human life on such a massive scale. Every evening on the news, every day in the papers of this country we see the picture of this horrible, horrible situation in Sudan and the faces of the people who are suffering. How long can this go on? How long can this go on without this government paying even closer attention than it has? How long can this go on without the world paying closer attention than it has?

To the credit of this administration and to this government, we have done more than any other country to try and focus world attention on the problems in Sudan, but we need the world to cooperate. We need the United Nations, we need the Security Council to do far more than they have done. We need the European Union to do more. We have a moral responsibility to respond to genocide.

What we do at this juncture has implications for every conflict we will address in the future. Everyone is watching to see how we respond. Secretary Powell and the U.S. administration have taken a courageous stand, as I say, but this is just the beginning. If we fail to act forcefully now, it will be open season for genocide. If we make empty threats, it will have serious consequences for the future of international peace and security.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this bill.

First, I would like to thank my colleagues, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from New Jersey (Mr. PAYNE), for keeping this House focused on the grave atrocities in Darfur.

Mr. Speaker, we are facing an ongoing genocide in Darfur. This House has said it; following our example the Senate has said it; the administration has come to the same conclusion; and the United Nations agrees: genocide is taking place in Darfur.

What is keeping the international community from intervening in the Darfur crisis? I hesitate to ask because I hate to think that the answer is the same double standard that stayed our hand in Rwanda in the 1990s.

Mr. Speaker, each of us has recounted the numbers in connection with the crisis in Darfur: an estimated 300,000 dead because of murder, starvation and disease, and 2 million refugees forced to flee their homes, most of whom are internally displaced, while others are forced out of the country.

The humanitarian needs in Darfur are staggering. After a year of international pressure, there are now about 60 international humanitarian organizations registered to operate in Darfur, and I strongly support more such aid to ease the suffering. But while these NGOs set up their operations to reach some of those in need, thousands are still without any relief due to the ongoing conflict.

The Sudanese military forces and its armed Arab militia, who I remind my colleagues are behind this tragedy in the first place, continue to commit some of the most heinous human rights abuses imaginable, and the number of those affected by this conflict continues to grow every day.

Mr. Speaker, recently the African Union has stepped forward with monitors and 3,500 troops to end the persecution in Darfur, and Sudan has agreed to an increase in African Union deployment. But now it is being reported that Khartoum has repeatedly refused to give fuel to the African Union monitors while the government's attack helicopters are in the air assaulting civilians on the ground.

While the African Union is committed to fulfilling its obligation to monitor and to report on human rights violations, it is hampered by all sides to the conflict not wishing to be implicated in the abuse. According to reports, the morale among African Union troops is very low because they are blocked at every turn by the ongoing violence and their inability to intervene.

In response to calls for international civilian protection forces, Khartoum's leaders have threatened to open, and I quote, ''the five gates of hell,'' against such protection. And in a cynical attempt to pretend it is taking action to protect civilians, Khartoum has recycled Arab militia killers into the Sudanese police force and has assigned them to guard camps for the displaced.

I am a strong supporter of African solutions for Africa's problems, and the deployment of African Union monitors and the protection force in Darfur is an opening sign that in the face of genocide, civilian protection should trump national sovereignty. But I am very much concerned that the African Union does not have the experience, the manpower, or the resources needed to provide civilian protection to end the genocide in Darfur. Their numbers are small compared to the task, and their resources are minimal.

Mr. Speaker, it troubles me that in the face of genocide we do not take the best asset we have available, NATO, the North Atlantic Treaty Organization, long experienced in civilian protection, to deploy its forces in Darfur in support of the African Union mission. In the face of genocide, I think it is imperative that our NATO ambassador move at the North Atlantic Council demanding that NATO get involved in Darfur to protect civilians from genocide.

While I recognize this is a tall order, when we were confronted with the crisis in Kosovo, NATO acted. We should expect nothing less for the African victims of genocide in Darfur. If we in the international community have the determination to end this genocide, that is what we must do. Otherwise, we have cause to wonder what exactly we harbor in our hearts toward the people of Darfur.

In closing, I urge all of my colleagues to support S. 2781.

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

□ 1315

Mr. TANCREDO. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF) who has been laboring in this vineyard longer than I, longer than most, and who adds an aspect of both compassion and articulation that is desperately needed on this issue.

Mr. WOLF. Mr. Speaker, I thank the gentleman from Colorado (Mr. TANCREDO) and his staff for this bill. I also thank the gentleman from New Jersey (Mr. PAYNE) for his efforts, the gentleman from California (Mr. LANTOS), the gentleman from California (Mr. ROYCE), Senator BROWNBACK, and many others that have been involved in this. Also, all of the NGOs, Andrew Natsios, Roger Winter, and all of the people who have been involved and very caring with regard to this issue.

As we pass this bill today, we have to remember the 2.1 million people that have died in the war north-south, mostly Christian but a large number of Muslim and a large number of animists who have paid a tremendous price.

Also, we have to remember that Osama bin Laden lived in Sudan from 1991 to 1996, so these people in the south have been on the front line in fighting the war against terrorism more than most people realize.

By passing this bill, we send hope to the men, women and children in Darfur who have been pushed out of African villages which have been burned, husbands who have been killed, women who have been raped and children who have been abducted. As we pass this bill today, we honor and recognize and send some hope to those in the IVP camps today that the United States Congress cares.

I am going to leave it to other Members to explain what this bill does and just say that, without this bill passing today, there would be no hope for women in the camps, no sense or sign to the people in the Khartoum government for all of the bad and evil things that they have done but for the efforts of the gentleman from Colorado (Mr. TANCREDO), who has been involved in this for so long, and the gentleman from California (Mr. ROYCE).

Secretary Powell also deserves to take some credit for this, as does President Bush. I thank both sides of the aisle for the great work they have done.

By passing this, it gives hope if there is an agreement signed and something positive comes out of Nairobi, Kenya, there is some lasting push behind it so there can be peace someday for the people in the north, in the area of Khartoum, and in the south, and also for the men, women and children in the Darfur region.

Mr. TANCREDO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYCE), the chairman of the Subcommittee on Africa, who has been enormously helpful in bringing this bill to the floor today.

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

I just want to indicate the sheer magnitude of the horror of what is unfolding in Sudan as we speak. Because what is occurring there is a scorched-earth policy that has killed in excess of 70,000 people, that has displaced more than a million of people within Sudan, and forced hundreds of thousands of people over the border into Chad.

When we think of the magnitude of the several hundreds villages burnt to the ground, the irrigation systems that have been systematically destroyed, that the government-backed militias, referred to as Janjaweed, are committing wide-spread rapes and atrocities, that the very people in the NGO communities, the very charitable organizations that are attempting to get in on the ground and to assist in this region are prevented access to those starving, I think when we reflect on what we know we can only imagine as to the extent of the horror in those villages in which we have no access, and to have had the United States, to have this Congress and the administration explain that this is genocide is only a first step.

The question has been how do we get the international community to take action, a concerted action, in order to effectively apply pressure on the government in Khartoum to reverse its actions in supporting the Janjaweed. We have made it clear that we are going to support international criminal courts, we are going to support bringing to justice those that have been found to be involved in this process. But, in the meantime, there is the question of how we negotiate with a United Nations in which that body and the Security Council is not willing to take the steps that the United States has taken to call this genocide, nor to put the types of embargoes that the United States has placed on Sudan. They are not willing to go as far.

In addition to speaking in favor of this resolution, I wanted to speak for just a moment about some of my concerns about the United Nations Security Council resolutions on Sudan. That draft resolution is dated November 18. This resolution is expected to be offered in Nairobi, Kenya. It addresses the issue of the ongoing negotiation, of an attempt to achieve peace in a separate conflict in southern Sudan.

Again, this Congress went on record declaring the killing in Darfur as genocide. This was a historic determination not to be taken lightly. It was a fitting response to the atrocities committed by the Sudanese government and their proxy forces.

For those of us on the floor today, we believe that genocide requires exceptional responses by the United States and the international community. We also believe that these responses should be taken with or without the concurrence by the government of Sudan. So when we look at the draft resolution that the United Nations is working on, we see that they urge bilateral and multilateral donors ''to continue their efforts to prepare for the rapid delivery of an assistance package for the reconstruction and economic development of Sudan, including official development assistance, possible debt relief and trade access to be implemented once a comprehensive peace agreement has been signed and its implementation begins.'' This document expresses hope that this implementation will occur by the end of next month.

Let me just say, as chairman of the Subcommittee on Africa, we should not support such a so-called peace dividend which benefits the government of Sudan merely for signing a peace agreement. We should not be doing that while killing rages in Darfur.

Numerous agreements, including memorandums of intent to sign future agreements, already have been signed, and countless deadlines have long since passed. Rewarding the government of Sudan for just the act of signing another agreement without setting concrete and verifiable benchmarks for implementation would be both foolhardy and unacceptable.

I realize that the administration is operating within the constraints of the Security Council and that the United States has been the leading and most aggressive country in trying to resolve the crisis in Sudan, and I understand that any Security Council resolution is a consensus document. But, nevertheless, those of us involved in policy on the Sudan ask the U.N. to reconsider, to reconsider whether the price of consensus is in this instance too high, and we ask the United Nations Security Council to redouble its efforts to put pressure on the government in Khartoum to end the killing in Darfur and to bring whatever powers we can to that end.

I am heartened by the offer by the African Union, by the Nigerian and the Rwandan troops, to go in on the ground to try to defend the people of Darfur. I would suggest that we ask the Security Council and the African Union to expand that mission and allow them to more aggressively pursue that defense and at the same time we continue our efforts with the heavy-lift capability and our efforts to get that force in place to defend these victims of genocide.

Mr. Speaker, I thank again the author of this resolution.

Mr. LANTOS. Mr. Speaker, I yield 5½ minutes to the gentleman from Oregon (Mr. BLUMENAUER), my good friend, a distinguished member of the Committee on International Relations and a tireless fighter for human rights.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman yielding me this time, and I applaud the sponsors, the gentleman from Colorado (Mr. TANCREDO), the distinguished chairman of the Subcommittee on Africa, the gentleman from California (Mr. ROYCE), and the gentleman from New Jersey (Mr. PAYNE) for bringing this forward.

In a sense, it is bittersweet that we have to do this because of the continuing crisis in Sudan, but the fact is that this Congress has been moving forward and shining the spotlight. This is another step towards making a difference, helping provide safe haven for hundreds of thousands of innocent people. As the world proceeds with words of concern, the people of Darfur continue to suffer at the hands of the Sudanese government and their militia allies because good words are not a sufficient substitute for appropriate action.

I appreciate the commitment we have here in Congress to do something, to take action. I view this resolution as the next step in moving us along that path.

It authorizes desperately needed humanitarian aid for over 1.5 million people forced from their homes. It includes both a carrot and a stick. It gives aide to Sudan if the government finishes the north-south peace process, begins to protect civilians and disarm the militia, and provides for sanction against senior government officials if they do not. Time will tell whether or not we have hit the right balance.

I appreciate the gentleman from California (Mr. ROYCE) talking about the role of the United Nations and the work we need to do there. It is an important issue for us as Members of Congress, because this is one of the areas, frankly, that I felt even in the fall when there was a lot of partisan passions, there were legitimate disagreements on areas of policy from Members, but this is an area where our shared values as Americans were more important than any partisan differences.

I remember the evening of our last resolution where Members came together in this Chamber, and it made me feel that maybe we would be able to take that step forward. I appreciate this resolution as being a part of the process, but I would offer the question for my colleagues if maybe we might take another small step. I have been in consultation with some of my colleagues like the gentleman from New Jersey (Mr. PAYNE), the gentleman from California (Mr. ROYCE) and others, about whether or not we might resolve as a Congress that in the next

session we would make a priority to take one small step, that each Member in the 109th Congress be able to visit the Sudan, to be able to spend a night on the ground in Darfur, and as we leave that country to stop off in Khartoum and let the government of Sudan know that their behavior is reprehensible and the spotlight of the world is trained upon them.

□ 1330

If we as Members go to our leadership in the spirit of bipartisan cooperation that this resolution has been authored, with the leadership of our International Relations Committee, and ask that the leadership, the Speaker, the minority leader, the majority leader, join with us in making sure that there are a series of CODELs over the next 2 years, I would respectfully suggest that there is no man or woman that serves in this Chamber that cannot find 4 days out of their lives in the next 2 years that could result in the saving of tens of thousands of lives.

I have received feedback from people in the NGO community that are doing outstanding work; they say if every Member of Congress would go to the Sudan over the next 2 years, that it would have a transformational effect, even if we had only 50 or 60 of our colleagues. So by all means, approve this resolution, stand, speak out, move forward; but I would ask that my colleagues join me in making a visit on the ground to be a priority for us all. This small gesture can save tens of thousands of lives.

Mr. TANCREDO. Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD an exchange of letters between Chairman HYDE and Chairman THOMAS.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, November 18, 2004.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing concerning S. 2781, the Comprehensive Peace in Sudan Act.

As you know, the Committee on Ways and Means has jurisdiction over revenue matters, including any legislation relating to imports. There are two provisions within the bill that may relate to imports and thus fall within the jurisdiction of the Committee on Ways and Means. Section 4(b)(8) expresses the Sense of Congress that ''the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to implement, peace agreements for all areas of Sudan.'' Section 6(a) requires the President to impose certain sanctions outlined in the Sudan Peace Act (P.L. 107–245), including the requirement to ''take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues,'' which could be interpreted to direct the President to impose an import ban on oil.

However, in order to expedite this legislation for floor consideration, the Committee will forego action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to S. 2781, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, DC, November 18, 2004.

Hon. WILLIAM M.THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning S. 2781, the Comprehensive Peace in Sudan Act.

Clearly, under House Rule X, the Committee on Ways and Means has jurisdiction over revenue matters, including any legislation relating to imports. I concur with your assessment of the matters in S. 2781 which fall within the jurisdiction of the Committee on Ways and Means. Section 4(b)(8) expresses the Senate of Congress that ''the Government of the United States should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to, and takes demonstrable steps to, implement peace agreements for all areas of Sudan.'' Section 6(a) requires the President to impose certain sanctions outlined in the Sudan Peace Act (P.L. 107–245), including the requirement to ''take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues,'' which could be interpreted to direct the President to impose an import ban on oil.

I appreciate your willingness to permit this important bill to proceed to the floor without the necessity of your Committee formally considering it. I understand that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

As you have requested, I will ensure that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Sincerely,

HENRY J. HYDE,
Chairman.

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

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to my good friend, the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the Comprehensive Peace in Sudan Act. Despite the increase in world attention toward Sudan in the past months, the genocide in Darfur has continued without any serious attempt by the Sudanese government to do what governments primarily exist to do, protect their citizens. Instead, Khartoum has been complicit in propagating the brutal acts of violence committed by the Janjaweed, has failed to disarm these Arab militias, and has hindered the delivery of humanitarian aid to Darfurians in dire need.

Congress has spoken out and acted several times to address this crisis, and I commend this body for its aggressiveness on this issue and for contributing more funds for humanitarian assistance than any other country. However, we have a moral obligation to do more. As the gentleman from California (Mr. LANTOS) has said, we must continue to set an example for the rest of the world. The punitive measures contained in this bill need the cooperation of the world in order to truly succeed in putting pressure on the Sudanese government.

I urge my colleagues to support this bill. I note that the genocide in Darfur cannot be addressed without seeing it in the context of Sudan's other tragic conflicts: the 21-year North-South civil war, and Sudan's support for LRA bases on Sudan's border with northern Uganda. We should remain careful to address all of these conflicts comprehensively, for none of them persists in a vacuum.

I also support the gentleman from California's call for NATO to get involved in addressing this most serious humanitarian crisis. The Khartoum regime will do what it must to survive. In 1995, sanctions led Sudan to cut its ties with terrorists and expel Osama bin Laden. The international community should take the same forceful action now to save hundreds of thousands of lives. If the world has learned anything from the horrific tragedy of Rwanda and all previous genocides, we must not commit the same mistake again.

Mr. LANTOS. Mr. Speaker, I am delighted to yield the balance of my time to the gentleman from New Jersey (Mr. PAYNE), the distinguished ranking member of the Subcommittee on Africa of the Committee on International Relations who has been our leader on all matters relating to that important continent.

Mr. TANCREDO. Mr. Speaker, I yield 2 additional minutes to the gentleman from New Jersey (Mr. PAYNE).

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

Mr. PAYNE. Mr. Speaker, I rise today in strong support of S. 2781, the Comprehensive Peace in Sudan Act. The bill is a result of weeks of negotiations between House and Senate cosponsors. First of all, this would have been impossible without the cooperation of the leadership of both the House and the Senate, and I would certainly like to commend the gentleman from Illinois (Mr. HYDE), the chairman of the committee, who has not said no to any request that we have made as relates to Sudan. There could not have been any more cooperation from a chairman of a committee in such a bipartisan manner than we have seen from the gentleman from Illinois. I would certainly like to commend him at this time.

Of course, the driving interest and support from the gentleman from California (Mr. LANTOS) who saw the effects of genocide decades ago when the

Holocaust was going on and the world looked the other way. His passion for issues that are right certainly shows clearly in his overwhelming support for action against the Government of Sudan and alleviating the situation of the people of Sudan.

Let me thank Senator BIDEN and, of course, our chair of the Subcommittee on Africa whose tireless effort has also been extraordinary in bipartisanship. I think that if the Congress could put a prototype of the Subcommittee on Africa and then see if it could spread towards the total Congress, much more positive legislation would be passed. And so I commend the gentleman from Orange County, the chairman of our subcommittee, and also the gentleman from Colorado (Mr. TANCREDO) who has been a real asset to our work. His first CODEL was a trip to southern Sudan. And so the gentleman from California (Mr. ROYCE), the gentleman from Colorado (Mr. TANCREDO), and the gentleman from California (Mr. ROYCE) who even before any of us came was fighting the fight and he continues to fight the good fight.

The world has witnessed genocide before but never as we have seen it again here before in Darfur, but the difference is we have declared genocide and that is something that the world has not done before. The world usually watched, said it is terrible, that sort of something should be done, and after it has been done, maybe a decade or two later, will do a study. And after the study is concluded, they will say indeed genocide occurred. The fact that in 1948 the world body said that there should be a law, there should be a responsibility to step in to prevent genocide, but it has not happened 10 years after Rwanda.

A film is coming out now that I wish everyone would be able to see about a person who saved 1,200 lives at the Mille Collines Hotel, where he simply kept 1,200 people, Tutsis and moderate Hutus, alive. And so as we see what has happened before, it is so important that we have stepped up, but to declare it is not enough. We see the brutal killings and unnecessary deaths due to cholera, diarrhea, and starvation.

We know the facts. Over 70,000 innocent men, women and children have been killed in this genocide conceived, sponsored, and carried out by the Government of Sudan. Government troops and the Janjaweed militias they have recruited and armed have internally displaced close to 1.6 million people and forced 200,000 people into Chad. They have raped countless women and children. What kind of world are we living in today in the new millennium where this can occur while the international community still looks on and debates the issue?

S. 2781 is our response to genocide, and it contains asset freezes on government officials as well as travel bans. It provides $200 million in fiscal year 2005 to the Darfur humanitarian relief and the African Union mission as well as $100 million to development in the southern Sudan. It says to the Government of Sudan that the United States is watching and will punish them for this genocide, despite any agreement that they may reach with the SPLM.

Let us not get ourselves confused. For 40 years the North and South have been at war and finally the Sudanese government has agreed to now another 30 or 45 days. They were supposed to sign it with the Security Council being in Nairobi, Kenya, but they said, well, give us until December 31. But let us not make any mistake about the fact that if the North-South agreement goes on, that we cannot turn a blind eye and give concessions to the Government of Sudan as they continue genocide in the West. We will not stand for that. It is unacceptable.

It is unconscionable that a government attacks its own people, yet the Government of Sudan has a history of doing this. In southern Sudan for years they practiced a scorched-Earth campaign of aerial bombardment that has killed over 2 million people and displaced another 5 million over the course of the last 3 decades.

Today in Nairobi, Kenya, the Security Council is meeting to discuss the North-South peace process, as I indicated earlier. It is key that we do not forget Darfur while we are pushing for peace in the North and the South.

I also urge my colleagues in the Congress to condemn the apparent shift of policy by the administration to reward the genocidaire Government of Sudan with debt relief and reconstruction if they sign an agreement by the end of the year instead of punishing them.

I think that this is a very key point. For decades and decades and decades the Government of Sudan has done the wrong thing. They allowed Osama bin Laden to live in Sudan. In those 4 or 5 years, Osama bin Laden, who had not developed an international organization, did not have the comfort to develop and strategize because he was even expelled from Saudi Arabia, the Government of Sudan, the same people who are in power, the same ministers, the same directors of programs, the same police officers, the same generals allowed Osama bin Laden to plan and to strengthen his organization, to develop a worldwide network in the United States, throughout Asia, throughout Africa, throughout the Middle East, and plan the bombings in Dar es Salaam and in Nairobi, which killed hundreds of Americans and Tanzanians and Kenyans.

And finally, after tremendous pressure, Sudan allowed him to leave, but the damage was done. Had that government not allowed Osama bin Laden to stay under their protection, the government issued visas to people who carried the bombs into those countries and we have reports of that. They supplied the ammunition needed to set off the bombs, this same government, who now have attacked the West. We say that it will be wrong. The North-South agreement is something that should not even have had to be signed because there should not have been the North atrocities on the South for the last 20 or 30 years.

That is good that there is finally becoming an agreement. But let us not allow that to blind us in saying that the government is doing the right thing. They are doing something that they should not have done before and let us have Darfur to make sure that the genocide ends there.

The SPEAKER pro tempore (Mr. BASS). The time of the gentleman from California (Mr. LANTOS) has expired.

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

The gentleman from New Jersey referenced a trip that we took to the Sudan, he and I, now over 5 years ago, 5½ years ago. It was certainly as a result of that trip that I have committed as much of my time and energy to this issue, and it is a result of the gentleman from New Jersey's leadership in this area that I stay connected to it.

Let me just tell you one thing that happened on that trip that I remember to this day and will remember it for the rest of my life. We were in a little town called Yai. As we walked through the town, a group of children surrounded us so that it was almost impossible to move. They kept yelling something. They were pointing up. They kept saying something, and of course I could not understand. We were trying to move by. I asked somebody, what are they saying?

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And the interpreter said they are fearful of bombs because, of course, the town had been bombed just prior to our getting there. The Antanov bombers had come by, and they were saying that they thought that because we were from the United States, because we were Congressmen, that they would not be hit by these bombs if they stayed close to us. And, of course, I could not promise that that could not happen. But I still remember their eyes, the eyes of these children looking up to us, looking for safety around us. And I will never forget that as long as I live. I will take that picture to my grave. And I committed myself at that time to do everything I could possibly do as a Member of Congress and as a human being, as a person with a soul, to do everything I could possibly do to provide them the shelter that they were looking for, them and all of the other children in Sudan and all of the other people that have suffered so mightily in this war-torn, ravaged country.

There are places all over the world I know that have experienced horrible events, and it happens daily. We come here ourselves and we say what can we do individually. We have to carve out something that we are going to focus on and spend time and energy on until it is accomplished or we are taken away, one way or the other, from this place.

So as I say, it has been certainly a pleasure to work with as many wonderful people as we have over the time. Father Dan, my colleague remembers, that we met there, who I always refer to as the individual in Sudan that anybody would go to if they want to know what was really happening, and he himself has saved thousands of people, thousands. We went to a church the last day we were there. Thousands of people came, and they had themselves experienced the most horrible things.

Almost 7,000 died on the way to this refugee camp that Father Dan had set up for them. And yet they came singing the praises of Jesus Christ and their thankfulness to be saved. I mean, it was the most incredible experience in my life, really. It was amazing. So I must say that the gentleman's kind words to me are certainly appreciated, but they are undeserved especially in terms of what he has done and others, my colleagues here.

We are pulled to this not for any political reason whatsoever. There are no votes. I mean, it is one of the few kinds of things we do on this floor that has absolutely no political advantage to anybody. We are pulled to this because we are human beings with souls and our souls are what tell us we must do, what we are doing here today.

So I thank the gentleman. I want to thank Molly Miller on my staff, who has spent so many countless hours and sleepless nights both probably in the office and also in her home worrying and thinking about this and trying to help us get to the floor tonight. Molly has been wonderful.

I just wish that this were the end of it. I wish that once we pass this, we could all walk away and think it is done, we have accomplished it, there is peace in Sudan. It is not the case. We know that is not the case. But it is what we are required to do today. And if there is more required to do tomorrow, I commit myself and I know my colleagues to the same. I commit myself to that task for as long as it takes.

Mr. RANGEL. Mr. Speaker, by now we are all aware of the ongoing crisis in Darfur, Sudan. The United Nations and U.S. officials have both asserted that the situation there is currently the worst humanitarian and human rights crisis in the world. To date, 1.4 million people have been internally displaced, 200,000 have been forced into exile, and an estimated 70,000 civilians have been killed. Some figures put the number of lives lost at nearly 300,000.

In light of this incomprehensible tragedy, I am extremely pleased to support the passage of the Comprehensive Peace in Sudan Act of 2004, S. 2781. The bill represents a non-partisan effort to provide adequate humanitarian and peacekeeping assistance to the Darfur region, as well as, hold accountable the perpetrators of the atrocities.

The bill seeks to appropriate $200 million for Darfur humanitarian relief, as well as assistance to the African Union's peacekeeping efforts in the region. through the application of economic sanctions, the bill will also seek to take punitive action against the Government of Sudan if it continues its brutal transgressions against the Darfurian people. In addition, the bill will appropriate $100 million in FY 05, 06, and 07 for reconstruction efforts in Southern Sudan.

The passage of S. 2781 will send a clear message that the people of Darfur are not alone in their struggle, and that the acts being perpetrated by the Sudanese government will not be tolerated. As a co-sponsor of H.R. 5061, the companion bill to S. 2781, I urge my fellow colleagues to lend their support to this critical measure, as it now lie son the cusp of passage.

I cannot stress enough its importance. Its success will no doubt aid in the cessation of genocide in Darfur, and the ability of its people to rebuild their lives and reclaim their liberty. As a nation that values freedom, we must make certain that it endures, not only for ourselves but for all our human brethren. S. 2781 is but one step in that eternal endeavor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of S. 2781 regarding the conflict in the Darfur region of Sudan. I fully supported H.R. 5061, which sought to provide the assistance that is necessary to begin to address the crisis in the Darfur region of Sudan and begin to usher in stability throughout the region and is related. The legislation before us today, S. 2781 does the following:

Sets forth the Comprehensive Peace in Sudan Act of 2004 which contains the sense of Congress regarding: (1) The Sudan Peace Act and its extension to the Darfur region of Sudan; and (2) actions to address the conflict in Sudan;

Amends the Sudan Peace Act to authorize additional FY 2005 appropriations to address the humanitarian and human rights crisis in the Darfur region and its impact on eastern Chad;

Authorizes additional FY 2005 appropriations for Sudan upon the conclusion of a peace agreement between the Government of Sudan and the Sudan People's Liberation Movement (SPLM) if the President certifies to the appropriate congressional committees that: (1) The Government of Sudan has taken steps to stop attacking civilians, disarm militias, cooperate fully with observer missions, and allow humanitarian access to all areas of Sudan, including Darfur; and (2) the SPLM is complying with the peace agreement;

Requires suspension of assistance to either party for its failure to adhere to certification requirements;

Requires: (1) Blocking of senior government officials' assets if such certification is not submitted within 120 days of enactment of this Act; and (2) continuation of existing restrictions until such certification;

Requires the President to report within 60 days of enactment of this Act on the planned U.S. response to a peace agreement for Sudan; and

Amends the International Organizations Immunities Act to replace a reference to ''Organization of African Unity'' with ''African Union.''

I congratulate our Senate colleague from Indiana for his hard work in crafting this legislation. However, some of its provisions may require additional urgent action to supplement its legal effect. For example, the 30-day delay required before sanctions can be placed by our government represents a significant concession.

Nevertheless, I feel that the authorization of $200 million in FY 2005 for Darfur humanitarian relief, as well as $100 million for FY 2005, 2006, and 2007 for the development of Southern Sudan will provide major relief in the near future.

H.R. 5061 called for sanctions against the Government of Sudan and that would allow the United States President to freeze the assets of senior Sudanese officials. These sanctions will enable the U.S. Government to facilitate the weakening of the Sudanese groups that threaten the lives of so many innocent people and the effectiveness of the N'Djamena Agreement (which is between the Government of Sudan, the Justice Equality Movement, and the Sudan Liberation Army) and other peace negotiations.

H.R. 5061 further aimed to include instructions for the U.S. Permanent Representative of the U.N. to urge the Security Council and member states to pursue accountability for those that are facilitating the genocide in Darfur. The provisions of that bill also sought to end the importation of Sudanese oil and to impose an arms embargo on the government of Sudan, the Janjaweed and the Peoples Democratic Front.

We know why this legislation and the bill before us are important. We have read in our newspapers and magazines and have watched our televisions to learn more about the lawlessness that is afflicting Darfur. Members of this Congress have traveled to Sudan and reported back the bad news. It continues to be a bloodbath situation in Sudan and this Congress must support this bill and take a stand against the murderous actors and to show out support for the millions of refugees whom have fled to neighboring countries. This bill will provide aid to the millions of refugees in eastern Chad and Darfur, who seek only to feed their children and seek solace from Janjaweed militias.

The situation in Darfur is dire. We must do more than simply label this horrendous act as genocide; we must take action to stop it. The people of Darfur continue to be raped and pillaged by militia forces. These militiamen ride into towns, villages, and even refugee camps on horseback carrying AK–47s and drive families from their farms, destroy their homes, rape their women, and in many cases murder them. Because of the overcrowding in the refugee camps and the inability of foreign aid workers to reach the camps due to instability, disease has become rampant. Right now in Darfur, thousands are succumbing to these diseases.

Mr. Speaker, the situation in Darfur is a disaster that has been brought upon the people of Darfur by the systematic efforts of the Janjaweed, which is strongly supported by the Sudanese Government in Khartoum. They have been orchestrating efforts to exterminate the ethnic African culture in Darfur, which this Congress, and most recently the president of these United States, labeled genocide.

Therefore this Congress must act now and support S. 2781. In addition to thanking Senator LUGAR for his hard work, I would like to thank Congressman THOMAS TANCREDO and Congressman DONALD PAYNE for their tireless efforts to raise awareness on this horrific act. I want to commend them for working to produce this bill and I can only pray that Congress will pass this legislation on behalf of those who are hoping for better days in Sudan.

Imagine a world where bands of armed militia raid and burn villages, kill men, rape

women, and abduct children, and force entire families off their lands. These are not scenes from a war movie; these are slices of everyday life for ethnic African people living in the Darfur region of western Sudan.

Relief workers and U.S. officials have reported seeing thousands children whose round bellies and sunken eyes reveal a famine so severe that even the most well fed of the land would still be considered malnourished. And they are a stone's throw from fertile ground. The problem is that Janjaweed militiamen riding on horseback and carrying AK–47s, have driven families from their farms, destroyed their homes, cut them off from resources, and refused to let them prepare for the upcoming rainy reason. The monsoons will likely overwhelm leaky huts and inadequate sewage systems and increase the risks of cholera, diarrhea, meningitis, measles, and possibly typhoid fever and polio. But this is not a natural disaster. It is a wholly unnatural, man-made disaster, brought about through the systematic efforts of the Janjaweed, and supported by the Sudanese Govenment in Khartoum. It is an effort to exterminate the ethnic African culture in Darfur—an international crime.

For the past year and a half, the Government of Sudan has supported and enlarged the interests of the Janjaweed militia. In the melee, more than 30,000 people have died and 300,000 more may die by year's end even if we contribute our best humanitarian effort. Now, in the twelfth hour, world leaders in Washington, at the U.N., and around the world are finally beginning to heed the cries of the people in Darfur. International aid and human rights organizations are stepping in to assess and meet the needs for humanitarian aid in both the Sudan and Chad where many displaced people of Darfur are seeking refuge.

Visits by Senator SAM BROWNBACK, Representative FRANK WOLF and, most recently, United States Secretary of State Colin Powell and United Nations Secretary-General Kofi Annan have done much to bring this issue to the forefront of world politics.

The world's attention and international media coverage are essential but insufficient to restore peace. To end this crisis, we must first acknowledge the scope of this crisis. What is happening in Darfur is genocide. In historic fashion, the House of Representatives, in an almost unprecedented show of bipartisanship passed legislation from my colleague in the Congressional Black Caucus DONALD PAYNE, H. Con. Res. 467—a formal declaration of genocide in Darfur, Sudan.

Today, I met with Secretary of State Colin Powell, and leaders from the Congressional Black Caucus, to discuss possibilities for future action in Sudan. Secretary Powell's passion and commitment to the cause of peace and justice for the Darfurians was obvious. But it is now time for similar dedication at the highest levels of govenment. I have written a letter to the President, co-signed by 30 other Members of Congress, both Republicans and Democrats, requesting a meeting as soon as practicable. United Nations Secretary-General Kofi Annan and President Bush must work in concert with us in the Congress to pressure the Sudanese to disarm the Janjaweed militias and end their reign of terror on ethnic-African peoples. If disarmament does not occur and if proper security measures are not taken to ensure that humanitarian workers will be able to do their jobs on the ground, we need to explore other more aggressive options, with our partners at the U.N., especially those nations in the African Union.

Today, U.S. lawmakers and U.N. officials know too much about the horrors taking place in Darfur for this administration and govenment to repeat the fate of Rwanda in 1994. We now have the momentum to move forward and prevent thousands and, possibly, millions from dying. With such a narrow window of opportunity to avert tragedy and with the urgent warnings issued this week by the 9/11 commission, I believe Congress should cut our recess short, and come back to Washington, to immediately address the issues that face this Nation and our friends in the world. It is our moral duty to put an end to what has already become a human rights catastrophe. We must stop the suffering and the commission of blatant crimes against humanity.

Mr. Speaker, I support this legislation and ask that this body unite for its passage.

Mr. MEEKS. Mr. Speaker, I would first like to commend my colleagues, DONALD PAYNE and TOM TANCREDO for working with the Senate to draft a bill that will hopefully be the beginning of the end of genocide in the Sudan.

Since February 2003, Sudanese government troops and their allied militia, the Janjaweed, have raped, tortured, maimed, and burned entire villages to cleanse the Darfur areas of African Muslims.

Seventy thousand have died. Over 200,000 have fled across the border into Chad and 1.6 million have been forced from their homes and into camps, where they remain vulnerable to attacks and lack basic services.

While the Sudanese government has done little to protect its people, the African Union has shown tremendous leadership in trying to stop the atrocities.

The African Union has led peace talks since August and sent hundreds of monitors and security forces to assist in stopping the atrocities.

It is my hope that the bulk of the assistance included in this bill will go to ensure that the African Union is successful in its mission to finally end the genocide in Darfur!

Additionally, we must continue to insist that the Sudanese government cease support for and disarm the Janjaweed militias by immediately utilizing sanctions against the government officials responsible for stopping the atrocities.

Darfur has waited long enough. We must act now.

Mr. PAUL. Mr. Speaker, I rise in strong opposition to this ill-conceived, counter-productive legislation. This represents exactly the kind of unconstitutional interventionism the Founding Fathers warned us about. It is arrogant and dangerous for us to believe that we can go around the world inserting ourselves into civil wars that have nothing to do with us without having to face the unintended consequences that always arise. Our steadily-increasing involvement in the civil war in Sudan may well delay the resolution of the conflict that appears to be proceeding without our involvement. Just today, in talks with the UN the two sides pledged to end the fighting.

The fact is we do not know and cannot understand the complexities of the civil war in Sudan, which has lasted for 39 of that country's 48 years of existence. Supporters of our intervention in Sudan argue that this is a clear-cut case of Sudan's Christian minority being oppressed and massacred by the Arab majority in the Darfur region. It is interesting that the CIA's World Factbook states that Sudan's Christians, who make up five percent of the population, are concentrated in the south of the country. Darfur is a region in the midwestern part of Sudan. So I wonder about this very simplistic characterization of the conflict.

It seems as if this has been all reduced to a few slogans, tossed around without much thought or care about real meaning or implication. We unfortunately see this often with calls for intervention. One thing we do know, however, is that Sudan is floating on a sea of oil. Why does it always seem that when we hear urgent clamor for the United States to intervene, oil or some other valuable commodity just happens to be present? I find it interesting that so much attention is being paid to oil-rich Sudan while right next door in Congo the death toll from its civil war is estimated to two to three million—several times the estimated toll in Sudan.

At a time when we have just raised the debt-ceiling to allow more massive debt accumulation, this legislation will unconstitutionally commit the United States to ship some 300 million taxpayer dollars to Sudan. It will also freeze the U.S. assets of certain Sudanese until the government of Sudan pursues peace in a time-frame and manner that the U.S. determines.

Inserting ourselves into this civil war in Sudan will do little to solve the crisis. In fact, the promise of U.S. support for one side in the struggle may discourage the progress that has been made recently. What incentive is there to seek a peaceful resolution of the conflict when the U.S. government promises massive assistance to one side? I strongly urge my colleagues to rethink our current dangerous course toward further intervention in Sudan. We may end up hurting most those we are intending to help.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and pass the Senate bill, S. 2781, as amended.

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

A motion to reconsider was laid on the table.

TREATING CERTAIN ARRANGEMENTS BY YMCA RETIREMENT FUND AS CHURCH PLANS

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5365) to treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, and for other purposes.

The Clerk read as follows:

H.R. 5365

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

SECTION 1. CERTAIN ARRANGEMENTS MAINTAINED BY THE YMCA RETIREMENT FUND TREATED AS CHURCH PLANS.

(a) RETIREMENT PLANS.—

(1) IN GENERAL.—For purposes of sections 401(a) and 403(b) of the Internal Revenue Code of 1986, any retirement plan maintained by the YMCA Retirement Fund as of January 1, 2003, shall be treated as a church plan (within the meaning of section 414(e) of such Code) which is maintained by an organization described in section 414(e)(3)(A) of such Code.

(2) TAX-DEFERRED RETIREMENT PLAN.—In the case of a retirement plan described in paragraph (1) which allows contributions to be made under a salary reduction agreement—

(A) such treatment shall not apply for purposes of section 415(c)(7) of such Code, and

(B) any account maintained for a participant or beneficiary of such plan shall be treated for purposes of such Code as a retirement income account described in section 403(b)(9) of such Code, except that such account shall not, for purposes of section 403(b)(12) of such Code, be treated as a contract purchased by a church for purposes of section 403(b)(1)(D) of such Code.

(3) MONEY PURCHASE PENSION PLAN.—In the case of a retirement plan described in paragraph (1) which is subject to the requirements of section 401(a) of such Code—

(A) such plan (but not any reserves held by the YMCA Retirement Fund)—

(i) shall be treated for purposes of such Code as a defined contribution plan which is a money purchase pension plan, and

(ii) shall be treated as having made an election under section 410(d) of such Code for plan years beginning after December 31, 2005, except that notwithstanding the election—

(I) nothing in the Employee Retirement Income Security Act of 1974 or such Code shall prohibit the YMCA Retirement Fund from commingling for investment purposes the assets of the electing plan with the assets of such Fund and with the assets of any employee benefit plan maintained by such Fund, and

(II) nothing in this section shall be construed as subjecting any assets described in subclause (I), other than the assets of the electing plan, to any provision of such Act,

(B) notwithstanding section 401(a)(11) or 417 of such Code or section 205 of such Act, such plan may offer a lump-sum distribution option to participants who have not attained age 55 without offering such participants an annuity option, and

(C) any account maintained for a participant or beneficiary of such plan shall, for purposes of section 401(a)(9) of such Code, be treated as a retirement income account described in section 403(b)(9) of such Code.

(4) SELF-FUNDED DEATH BENEFIT PLAN.—For purposes of section 7702(j) of such Code, a retirement plan described in paragraph (1) shall be treated as an arrangement described in section 7702(j)(2).

(b) YMCA RETIREMENT FUND.—For purposes of this section, the term ''YMCA Retirement Fund'' means the Young Men's Christian Association Retirement Fund, a corporation created by an Act of the State of New York which became law on April 30, 1921.

(c) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

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

Mr. Speaker, I rise today to support H.R. 5365, legislation that I had the privilege to introduce along with the gentleman from North Dakota (Mr. POMEROY). The gentleman from North Dakota and I have been working together for a number of years to make this important clarification, and I appreciate his dedication and leadership on this issue. I also want to thank the gentleman from California (Chairman THOMAS) and the Committee on Ways and Means for their invaluable assistance in bringing this bill to the floor today.

Mr. Speaker, this bill is designed to ensure that thousands of pension plan participants and retirees from the YMCA can continue to count on their benefits. It addresses a concern about the technical status of the YMCA pension plan as a church plan, a type of pension plan offered by churches or associations of churches which brings with it a special set of rules and regulations under the Tax Code. While the Y pension plan was founded as and historically has been treated as a church plan, the IRS has on occasion puckishly called its status into question. This bill ensures that its status remains a church plan and that the plan may continue to operate as has been for over 80 years with clear congressional intent.

The YMCA pension plan is a significant and important component of the compensation package offered all YMCA employees, most of whom are paid modestly. Every full-time employee of local YMCAs is required to participate to help ensure better retirement security for all of these employees. The YMCA pension plan is important to the YMCA employees and retirees in my district in Pennsylvania, as it is to those plan participants in most likely each and every congressional district across the country.

This legislation has a vital impact on more than 3,000 families in Pennsylvania and over 80,000 participants nationwide because it offers them financial and retirement security for their long service on behalf of our Nation's YMCAs, one of our most important organizations operating within communities throughout this country. I am pleased that we are moving forward with this bill today to preserve the status quo, and I encourage all of my colleagues to actively support this bill.

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

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

I am very pleased to join the gentleman from Pennsylvania (Mr. ENGLISH) in the sponsoring of this bill. I want to also express my gratitude to the gentleman from California (Chairman THOMAS) for allowing the bill to come forward and to the gentleman from New York (Mr. RANGEL), ranking member, for his interest and support of this legislation.

The YMCA puts Christian principles into the communities by programs that advance healthy minds and strong bodies. They serve 18 million Americans every year and operate throughout its 90-year existence a pension plan for the modestly paid individuals that make these facilities what they are to those enjoying their services.

The YMCA retirement plan requires each and every employee to participate, provides retirees with annuities that guarantee monthly income for life. In fact, 98 percent of retirees choose a lifetime income over that lump sum payment option.

As we look at this whole retirement savings, retirement income conundrum, and we are certainly going to be deeply involved in that this coming congressional session, I hope we can agree that we are going to try to keep in the marketplace what works. And certainly when it comes to the YMCAs pension program, this is a plan that works.

It has been placed in some question because of the IRS's evaluating whether or not it appropriately qualifies under the church-sponsored plan, as was mentioned by the gentleman from Pennsylvania (Mr. ENGLISH). It is important to legislatively take that, shed that cloud off of this pension program. I appreciate the IRS for forbearing while Congress has been allowed through this legislation to straighten out and clarify that we do not want any changes to the YMCA pension plan. This is a plan that is working and serving its people well. We want it to continue as it has done, and that is the effect of this legislation.

In North Dakota we have 820 YMCA employees and retirees whose fate is linked in some respect to this legislation. Nationally 88,000 have a stake in this legislation.

I hope that as we pass this legislation today, we can take this as a precedent. These pension issues deserve bipartisan approach, like the bill before us, and we need to build on the concept, keep what works, move to address the other areas as these solutions present themselves.

So I am very pleased to advance H.R. 5365 and urge its adoption.

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

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

I will submit the exchange of letters between the gentleman from California (Chairman THOMAS) and the gentleman from Ohio (Chairman BOEHNER) relating to the jurisdiction of this bill for the RECORD.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,

Washington, DC, November 19, 2004.

Hon. WILLIAM M. THOMAS,

Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS: I am writing to confirm our mutual understanding with respect to consideration of H.R. 5365, to treat certain arrangements maintained by the

YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, which was referred to the Committee on Ways and Means and in addition the Committee on Education and the Workforce. The bill would impact the Employee Retirement Income Security Act (ERISA) as it applies to certain pension plans within the jurisdiction of the Committee on Education and the Workforce.

I do not intend to delay consideration of H.R. 5365, nor will I object to the scheduling of this bill for consideration in the House of Representatives. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect Members of the Committee on Education and the Workforce be appointed to the conference committee on those provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Congressional Record on this bill. If you have questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

JOHN A. BOEHNER,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, November 19, 2004.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, Washington, DC.

DEAR CHAIRMAN BOEHNER: Thank you for your letter regarding H.R. 5365, a bill that would treat the YMCA Retirement Fund as a church plan for certain provisions of the Internal Revenue Code of 1986.

I appreciate your agreement to expedite the passage of this legislation although it contains provisions relating to the Employee Retirement Income Security Act of 1974 that are within your Committee's jurisdiction. I acknowledge your decision to forego further action on the bill is based on the understanding that it will not prejudice the Committee on Education and the Workforce with respect to its jurisdictional prerogatives or the appointment of conferees on this or similar legislation.

I appreciate your helping us to move this legislation quickly to the floor. Since the Committee will not report his bill, I will instead include in the CONGRESSIONAL RECORD as copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

BILL THOMAS,
Chairman.

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

Mr. POMEROY. Mr. Speaker, I yield myself 30 seconds.

I believe each and every one of us in this Chamber appreciates the work of the YMCA and recognizes that the YMCA is more than wonderful facilities. It is the people there. It is the people there that make these such a special part of our communities. If we want to do something that shows our appreciation to these dear people in the YMCA, let us move this legislation. This removes any shadow of a doubt that their pension plan can continue to function as it has functioned for virtually the entire life of the YMCA associations. This is a good thing to do.

I am pleased to work with the gentleman from Pennsylvania (Mr. ENGLISH), my friend, in moving this legislation forward. Let this be a place where the true spirit of bipartisanship can break out on a worthy goal. Let us support this legislation.

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

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

I also want to salute the gentleman from North Dakota, who is a valuable ally particularly in dealing with an issue like this that is in a sense relatively straightforward, but deals with the technicalities of the tax law. He has been a great resource to us and to the committee, and it is a privilege for me to be co-sponsoring this legislation with him.

Mr. Speaker, I think that if we look at the history of the YMCA in America, we see the premier faith-based organization that has been providing services to people throughout our communities and providing services that have had an enormous cumulative social impact on America.

One of the essential components to the YMCA and how it operates is its ability to offer this pension program to its employees. The YMCA does not operate on a broad profit margin. So to be able to offer this program with its tax status is critical to the Y's ability to attract the kind of people who are willing to dedicate themselves to the community. And this I believe is a very important piece of legislation to maintain the status quo, to allow the Y to continue to offer not only an excellent pension to its participants and to all of its hard-working employees but also to continue to be able to offer the quality of services in communities throughout America.

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Mr. Speaker, it is a privilege for me to urge my colleagues to gather together on a bipartisan basis to approve this bill.

Mr. BOEHNER. Mr. Speaker, I rise in support of the YMCA Retirement Fund Act, a bill sponsored by Mr. ENGLISH. Strengthening employee pension plans has been a longstanding priority of mine, and I'm pleased to support this common sense reform that will strengthen pension benefits provided through the YMCA Retirement Fund.

This bill will ensure the Young Men's Christian Association's pension plans are treated as church plans under the Internal Revenue Code, and its employees are provided many of the important protections under the Employee Retirement Income Security Act ("ERISA").

The YMCA Retirement Fund has been in existence for more than eighty years, and provides meaningful pension benefits to more than 80,000 participants across the nation. Employees of local YMCA's participate in these pension plans and enjoy a vesting period of either two or three years. These employees obtain a non-forfeitable right to their pension benefits faster than employees under traditional qualified plans.

I'm pleased today to support this bill to ensure the YMCA Retirement Fund may continue providing these important pension benefits to its employees, many of whom will now also benefit from the important protections provided under ERISA.

Under the bill, the pension plans in the Fund may commingle assets for investment purposes. While there may be certain restrictions on this practice under the Internal Revenue Code, it is important to note that it is not a per se violation to commingle assets under ERISA, provided that the plan and its fiduciaries maintain appropriate records. Therefore, the language should not suggest that other qualified pension plans under ERISA cannot engage in this widely accepted practice.

If the YMCA Retirement Fund's status as a church plan under the Internal Revenue Code is not clarified for this narrow purpose, the Fund may not have the ability to continue to provide the same generous pension benefits to its participants, most of whom are modestly paid.

Finally, Mr. Speaker, I would note that while this legislation will solve a problem for the more than 80,000 Americans involved with the YMCA pension plan, the laws that govern all American worker pensions will remain outdated and in desperate need of reform and repair. The failure to update these laws has resulted in a very real threat that taxpayers will be forced to pay for a multi-billion bailout of the Pension Benefit Guaranty Corporation, which protects workers' retirement benefits when their companies fail. It's absolutely critical that we act in a bipartisan manner in the weeks and months ahead to enact comprehensive, broad-based reforms that will modernize our nation's pension laws and restore security for workers and taxpayers. This is a top priority for me and the members of our committee, and I know it is for Chairman THOMAS and the members of the Ways and Means Committee as well.

I want to thank Chairman THOMAS and the bill's sponsor, Mr. ENGLISH, for their cooperation in bringing this bill to the House floor today. I'm hopeful that we can build on this important legislation, and continue our efforts to craft a solution that will protect the retirement security of all our nation's workers in the same serious and thoughtful manner that produced the bill we're considering today.

I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and pass the bill, H.R. 5365.

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. ENGLISH. 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. 5365, the bill just passed.

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

There was no objection.

COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5382) to promote the development of the emerging commercial human space flight industry, and for other purposes.

The Clerk read as follows:

H.R. 5382

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 ''Commercial Space Launch Amendments Act of 2004''.

SEC. 2. AMENDMENTS.

(a) FINDINGS AND PURPOSES.—Section 70101 of title 49, United States Code, is amended—

(1) in subsection (a)(3), by inserting ''human space flight,'' after ''microgravity research,'';

(2) in subsection (a)(4)—

(A) by striking ''satellite''; and

(B) by striking ''services now available from'' and inserting ''capabilities of'';

(3) in subsection (a)(8), by striking ''and'' at the end;

(4) in subsection (a)(9), by striking the period and inserting a semicolon;

(5) by adding at the end of subsection (a) the following new paragraphs:

''(10) the goal of safely opening space to the American people and their private commercial, scientific, and cultural enterprises should guide Federal space investments, policies, and regulations;

''(11) private industry has begun to develop commercial launch vehicles capable of carrying human beings into space and greater private investment in these efforts will stimulate the Nation's commercial space transportation industry as a whole;

''(12) space transportation is inherently risky, and the future of the commercial human space flight industry will depend on its ability to continually improve its safety performance;

''(13) a critical area of responsibility for the Department of Transportation is to regulate the operations and safety of the emerging commercial human space flight industry;

''(14) the public interest is served by creating a clear legal, regulatory, and safety regime for commercial human space flight; and

''(15) the regulatory standards governing human space flight must evolve as the industry matures so that regulations neither stifle technology development nor expose crew or space flight participants to avoidable risks as the public comes to expect greater safety for crew and space flight participants from the industry.'';

(6) in subsection (b)(2)—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by inserting ''and'' after the semicolon in subparagraph (B); and

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

''(C) promoting the continuous improvement of the safety of launch vehicles designed to carry humans, including through the issuance of regulations, to the extent permitted by this chapter;''; and

(7) in subsection (b)(3), by striking ''issue and transfer'' and inserting ''issue permits and commercial licenses and transfer''.

(b) DEFINITIONS.—Section 70102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (17) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (12), (13), (14), (15), (16), (18), (21), and (22), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) 'crew' means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.'';

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by inserting '', crew, or space flight participant'' after ''any payload'';

(4) in paragraph (6)(A), as so redesignated by paragraph (1) of this subsection, by striking ''and payload'' and inserting '', payload, crew (including crew training), or space flight participant'';

(5) in paragraph (8)(A), as so redesignated by paragraph (1) of this subsection, by inserting ''or human beings'' after ''place a payload'';

(6) by inserting after paragraph (10), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

''(11) except in section 70104(c), 'permit' means an experimental permit issued under section 70105a.'';

(7) in paragraph (13), as so redesignated by paragraph (1) of this subsection, by inserting ''crew, or space flight participants,'' after ''and its payload,'';

(8) in paragraph (14)(A), as so redesignated by paragraph (1) of this subsection, by striking ''and its payload'' inserting ''and payload, crew (including crew training), or space flight participant'';

(9) by inserting after paragraph (16), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

''(17) 'space flight participant' means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.'';

(10) by inserting after paragraph (18), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

''(19) unless and until regulations take effect under section 70120(c)(2), 'suborbital rocket' means a vehicle, rocket-propelled in whole or in part, intended for flight on a suborbital trajectory, and the thrust of which is greater than its lift for the majority of the rocket-powered portion of its ascent.

''(20) 'suborbital trajectory' means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth.''; and

(11) in paragraph (21), as so redesignated by paragraph (1) of this subsection—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

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

''(E) crew or space flight participants.''.

(c) COMMERCIAL HUMAN SPACE FLIGHT.—(1) Section 70103(b)(1) of title 49, United States Code, is amended by inserting '', including those involving space flight participants'' after ''private sector''.

(2) Section 70103 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

''(c) SAFETY.—In carrying out the responsibilities under subsection (b), the Secretary shall encourage, facilitate, and promote the continuous improvement of the safety of launch vehicles designed to carry humans, and the Secretary may, consistent with this chapter, promulgate regulations to carry out this subsection.''.

(3) Section 70104(a) of title 49, United States Code, is amended—

(A) by striking ''License Requirement.—A license issued or transferred under this chapter'' and inserting ''Requirement.—A license issued or transferred under this chapter, or a permit,''; and

(B) by inserting after paragraph (4) the following: ''Notwithstanding this subsection, a permit shall not authorize a person to operate a launch site or reentry site.''.

(4) Section 70104(b) of title 49, United States Code, is amended by inserting ''or permit'' after ''holder of a license''.

(5) Section 70104 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(d) SINGLE LICENSE OR PERMIT.—The Secretary of Transportation shall ensure that only 1 license or permit is required from the Department of Transportation to conduct activities involving crew or space flight participants, including launch and reentry, for which a license or permit is required under this chapter. The Secretary shall ensure that all Department of Transportation regulations relevant to the licensed or permitted activity are satisfied.''.

(6) Section 70105(a) of title 49, United States Code, is amended—

(A) in paragraph (1), by striking ''a license is not issued'' and inserting ''the Secretary has not taken action on a license application''; and

(B) in paragraph (2), by inserting ''(including approval procedures for the purpose of protecting the health and safety of crews and space flight participants, to the extent permitted by subsections (b) and (c))'' after ''or personnel''.

(7) Section 70105(b)(1) of title 49, United States Code, is amended by inserting ''or permit'' after ''for a license''.

(8) Section 70105(b)(2)(B) of title 49, United States Code, is amended by striking ''an additional requirement necessary to protect'' and inserting ''any additional requirement necessary to protect''.

(9) Section 70105(b)(2)(C) of title 49, United States Code, is amended—

(A) by inserting ''or permit'' after ''for a license''; and

(B) by striking ''and'' at the end thereof.

(10) Section 70105(b)(2) of title 49, United States Code, is amended by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following new subparagraph:

''(D) additional license requirements, for a launch vehicle carrying a human being for compensation or hire, necessary to protect the health and safety of crew or space flight participants, only if such requirements are imposed pursuant to final regulations issued in accordance with subsection (c); and''.

(11) Section 70105(b)(2)(E) of title 49, United States Code, as so redesignated by paragraph (11) of this subsection, is amended by inserting ''or permit'' after ''for a license''.

(12) Section 70105(b)(3) of title 49, United States Code, is amended by adding at the end the following: ''The Secretary may not grant a waiver under this paragraph that would permit the launch or reentry of a launch vehicle or a reentry vehicle without a license or permit if a human being will be on board.''.

(13) Section 70105(b) of title 49, United States Code, is amended by adding at the end the following new paragraphs:

''(4) The holder of a license or a permit under this chapter may launch or reenter crew only if—

''(A) the crew has received training and has satisfied medical or other standards specified in the license or permit in accordance with regulations promulgated by the Secretary;

''(B) the holder of the license or permit has informed any individual serving as crew in writing, prior to executing any contract or other arrangement to employ that individual (or, in the case of an individual already employed as of the date of enactment of the Commercial Space Launch Amendments Act of 2004, as early as possible, but in any event prior to any launch in which the individual will participate as crew), that the United States Government has not certified the launch vehicle as safe for carrying crew or space flight participants; and

''(C) the holder of the license or permit and crew have complied with all requirements of the laws of the United States that apply to crew.

''(5) The holder of a license or a permit under this chapter may launch or reenter a space flight participant only if—

''(A) in accordance with regulations promulgated by the Secretary, the holder of the license or permit has informed the space flight participant in writing about the risks of the launch and reentry, including the safety record of the launch or reentry vehicle type, and the Secretary has informed the space flight participant in writing of any relevant information related to risk or probable loss during each phase of flight gathered by the Secretary in making the determination required by section 70112(a)(2) and (c);

''(B) the holder of the license or permit has informed any space flight participant in writing, prior to receiving any compensation from that space flight participant or (in the case of a space flight participant not providing compensation) otherwise concluding any agreement to fly that space flight participant, that the United States Government has not certified the launch vehicle as safe for carrying crew or space flight participants;

''(C) in accordance with regulations promulgated by the Secretary, the space flight participant has provided written informed consent to participate in the launch and reentry and written certification of compliance with any regulations promulgated under paragraph (6)(A); and

''(D) the holder of the license or permit has complied with any regulations promulgated by the Secretary pursuant to paragraph (6).

''(6)(A) The Secretary may issue regulations requiring space flight participants to undergo an appropriate physical examination prior to a launch or reentry under this chapter. This subparagraph shall cease to be in effect three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.

''(B) The Secretary may issue additional regulations setting reasonable requirements for space flight participants, including medical and training requirements. Such regulations shall not be effective before the expiration of 3 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004.''.

(14) Section 70105 of title 49, United States Code, is amended by redesignating subsection (c) as subsection (d), and by adding after subsection (b) the following new subsection:

''(c) SAFETY REGULATIONS.—(1) The Secretary may issue regulations governing the design or operation of a launch vehicle to protect the health and safety of crew and space flight participants.

''(2) Regulations issued under this subsection shall—

''(A) describe how such regulations would be applied when the Secretary is determining whether to issue a license under this chapter;

''(B) apply only to launches in which a vehicle will be carrying a human being for compensation or hire;

''(C) be limited to restricting or prohibiting design features or operating practices that—

''(i) have resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants during a licensed or permitted commercial human space flight; or

''(ii) contributed to an unplanned event or series of events during a licensed or permitted commercial human space flight that posed a high risk of causing a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants; and

''(D) be issued with a description of the instance or instances when the design feature or operating practice being restricted or prohibited contributed to a result or event described in subparagraph (C).

''(3) Beginning 8 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary may propose regulations under this subsection without regard to paragraph (2)(C) and (D). Any such regulations shall take into consideration the evolving standards of safety in the commercial space flight industry.

''(4) Nothing in this subsection shall be construed to limit the authority of the Secretary to issue requirements or regulations to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States.''.

(15) Section 70105(d) of title 49, United States Code, as so redesignated by paragraph (15) of this subsection, is amended by inserting ''or permit'' after ''of a license''.

(16) Chapter 701 of title 49, United States Code, is amended by inserting after section 70105 the following new section:

''§ 70105a. Experimental permits

''(a) A person may apply to the Secretary of Transportation for an experimental permit under this section in the form and manner the Secretary prescribes. Consistent with the protection of the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 120 days after receiving an application pursuant to this section, shall issue a permit if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 90 days after receiving an application. The Secretary shall transmit to the Committee on Science of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 15 days after any occurrence when the Secretary has failed to act on a permit within the deadline established by this section.

''(b) In carrying out subsection (a), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting commercial space launch or reentry activities pursuant to a permit.

''(c) In order to encourage the development of a commercial space flight industry, the Secretary may when issuing permits use the authority granted under section 70105(b)(2)(C).

''(d) The Secretary may issue a permit only for reusable suborbital rockets that will be launched or reentered solely for—

''(1) research and development to test new design concepts, new equipment, or new operating techniques;

''(2) showing compliance with requirements as part of the process for obtaining a license under this chapter; or

''(3) crew training prior to obtaining a license for a launch or reentry using the design of the rocket for which the permit would be issued.

''(e) Permits issued under this section shall—

''(1) authorize an unlimited number of launches and reentries for a particular suborbital rocket design for the uses described in subsection (d); and

''(2) specify the type of modifications that may be made to the suborbital rocket without changing the design to an extent that would invalidate the permit.

''(f) Permits shall not be transferable.

''(g) A permit may not be issued for, and a permit that has already been issued shall cease to be valid for, a particular design for a reusable suborbital rocket after a license has been issued for the launch or reentry of a rocket of that design.

''(h) No person may operate a reusable suborbital rocket under a permit for carrying any property or human being for compensation or hire.

''(i) For the purposes of sections 70106, 70107, 70108, 70109, 70110, 70112, 70115, 70116, 70117, and 70121 of this chapter—

''(1) a permit shall be considered a license;

''(2) the holder of a permit shall be considered a licensee;

''(3) a vehicle operating under a permit shall be considered to be licensed; and

''(4) the issuance of a permit shall be considered licensing.

This subsection shall not be construed to allow the transfer of a permit.''.

(17) Section 70106(a) of title 49, United States Code, is amended—

(A) by inserting ''at a site used for crew or space flight participant training,'' after ''assemble a launch vehicle or reentry vehicle,''; and

(B) by striking ''section 70104(c)'' and inserting ''sections 70104(c), 70105, and 70105a''.

(18) Section 70107(b) of title 49, United States Code, is amended—

(A) by inserting ''(1)'' before ''On the initiative''; and

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

''(2) The Secretary shall modify a license issued or transferred under this chapter whenever a modification is needed for the license to be in conformity with a regulation that was issued pursuant to section 70105(c) after the issuance of the license. This paragraph shall not apply to permits.''.

(19) Section 70107 of title 49, United States Code, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) ADDITIONAL SUSPENSIONS.—(1) The Secretary may suspend a license when a previous launch or reentry under the license has resulted in a serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants and the Secretary has determined that continued operations under the license are likely to cause additional serious or fatal injury (as defined in 49 CFR 830, as in effect on November 10, 2004) to crew or space flight participants.

''(2) Any suspension imposed under this subsection shall be for as brief a period as possible and, in any event, shall cease when the Secretary—

''(A) has determined that the licensee has taken sufficient steps to reduce the likelihood of a recurrence of the serious or fatal injury; or

''(B) has modified the license pursuant to subsection (b) to sufficiently reduce the likelihood of a recurrence of the serious or fatal injury.

''(3) This subsection shall not apply to permits.''.

(20) Section 70110(a)(1) of title 49, United States Code, is amended by inserting ''or 70105a'' after ''70105(a)''.

(21) Section 70112(b)(2) of title 49, United States Code, is amended—

(A) by inserting ''crew, space flight participants,'' after ''transferee, contractors, subcontractors,''; and

(B) by inserting ''or by space flight participants,'' after ''its own employees''.

(22) Section 70113(a)(1) of title 49, United States Code, is amended by inserting ''but not against a space flight participant,'' after ''subcontractor of a customer,''.

(23) Section 70113(f) of title 49, United States Code, is amended by inserting at the end the following: ''This section does not apply to permits.''.

(24) Section 70115(b)(1)(D)(i) of title 49, United States Code, is amended by inserting ''crew or space flight participant training site,'' after ''site of a launch vehicle or reentry vehicle,''.

(25) Section 70120 of title 49, United States Code, is amended by adding at the end the following new subsections:

''(c) AMENDMENTS.—(1) Not later than 12 months after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall publish proposed regulations to carry out that Act, including regulations relating to crew, space flight participants, and permits for launch or reentry of reusable suborbital rockets. Not later than 18 months after such date of enactment, the Secretary shall issue final regulations.

''(2)(A) Starting 3 years after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary may issue final regulations changing the definition of suborbital rocket under this chapter. No such regulation may take effect until 180 days after the Secretary has submitted the regulation to the Congress.

''(B) The Secretary may issue regulations under this paragraph only if the Secretary has determined that the definition in section 70102 does not describe, or will not continue to describe, all appropriate vehicles and only those vehicles. In making that determination, the Secretary shall take into account the evolving nature of the commercial space launch industry.

''(d) EFFECTIVE DATE.—(1) Licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board and permits may be issued by the Secretary prior to the issuance of the regulations described in subsection (c).

''(2) As soon as practicable after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall issue guidelines or advisory circulars to guide the implementation of that Act until regulations are issued.

''(3) Notwithstanding paragraphs (1) and (2), no licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board or permits may be issued starting three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004 unless the final regulations described in subsection (c) have been issued.''.

(26) The table of sections for chapter 701 of title 49, United States Code, is amended by inserting after the item relating to 70105 the following new item:

''70105a. Experimental permits.''.

SEC. 3. STUDIES.

(a) RISK SHARING.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall enter into an arrangement with a nonprofit entity for the conduct of an independent comprehensive study of the liability risk sharing regime in the United States for commercial space transportation under section 70113 of title 49, United States Code. To ensure that Congress has a full analysis of the liability risk sharing regime, the study shall assess methods by which the current system could be eliminated, including an estimate of the time required to implement each of the methods assessed. The study shall assess whether any alternative steps would be needed to maintain a viable and competitive United States space transportation industry if the current regime were eliminated. In conducting the assessment under this subsection, input from commercial space transportation insurance experts shall be sought. The study also shall examine liability risk sharing in other nations with commercial launch capability and evaluate the direct and indirect impact that ending this regime would have on the competitiveness of the United States commercial space launch industry in relation to foreign commercial launch providers and on United States assured access to space.

(b) SAFETY.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall enter into an arrangement with a nonprofit entity for a report analyzing safety issues related to launching human beings into space. In designing the study, the Secretary should take into account any recommendations from the Commercial Space Transportation Advisory Committee and the National Aeronautics and Space Administration's Aerospace Safety Advisory Panel. The report shall be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 4 years of the date of enactment of this Act. The report shall analyze and make recommendations about—

(1) the standards of safety and concepts of operation that should guide the regulation of human space flight and whether the standard of safety should vary by class or type of vehicle, the purpose of flight, or other considerations;

(2) the effectiveness of the commercial licensing and permitting regime under chapter 701 of title 49, United States Code, particularly in ensuring the safety of the public and of crew and space flight participants during launch, in-space transit, orbit, and reentry, and whether any changes are needed to that chapter;

(3) whether there is a need for commercial ground operations for commercial space flight, including provision of launch support, launch and reentry control, mission control, range operations, and communications and telemetry operations through all phases of flight, and if such operations developed, whether and how they should be regulated;

(4) whether expendable and reusable launch and reentry vehicles should be regulated differently from each other, and whether either of those vehicles should be regulated differently when carrying human beings;

(5) whether the Federal Government should separate the promotion of human space flight from the regulation of such activity;

(6) how third parties could be used to evaluate the qualification and acceptance of new human space flight vehicles prior to their operation;

(7) how nongovernment experts could participate more fully in setting standards and developing regulations concerning human space flight safety; and

(8) whether the Federal Government should regulate the extent of foreign ownership or control of human space flight companies operating or incorporated in the United States.

SEC. 4. TECHNICAL AMENDMENT.

Section 102(c) of the Commercial Space Act of 1998 is repealed.

The SPEAKER pro tempore (Mr. KLINE). Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

Mr. OBERSTAR. Mr. Speaker, I would like to inquire of the gentleman from Texas if he is opposed to the bill.

The SPEAKER pro tempore. Is the gentleman from Texas (Mr. LAMPSON) opposed to the bill?

Mr. LAMPSON. I will support the bill, Mr. Speaker.

Mr. OBEY. Mr. Speaker, I rise to claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) will control 20 minutes in opposition to the bill.

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, first of all, let me congratulate someone who is spending his last day on the floor as an activist for America's space program. The gentleman from Texas (Mr. LAMPSON) has been a tremendous asset in our Subcommittee on Space and Aeronautics. He exemplifies the spirit of activism and the support team for our astronauts and what they have needed in order to be successful. I appreciate his support of this amendment today, knowing that we both have worked on this, along with the gentleman from Tennessee (Mr. GORDON), and it has been purely a bipartisan effort. We have had many, many hearings on this bill, and today is a culmination of his career and, I might add, it is a culmination of my career as chairman of the Subcommittee on Space and Aeronautics, as this is one of my last actions as chairman to be here before us today.

The bill we speak about, H.R. 5382, the Commercial Space Launch Amendments Act of 2004, represents a long and thorough process and also a solid bipartisan effort to make commercial human space flight a reality. Earlier this year, H.R. 3752 passed this House by a vote of 402 to 1. Thus, there is nothing to any charge to suggest that there has been anything but pure, that

this bill has been operating purely in the open and with open discussion and with the input from both sides of the aisle.

That bill's central premise that passed by 402 to 1 was that, after being informed of the risks, that people can and should be able to decide to buy a ticket and achieve their lifelong dream of flying into space, even though they know that it is a risky proposition.

The House Committee on Science has worked diligently with the Senate Committee on Commerce, Science, and Transportation to craft an even more balanced, compromised bill which is being considered today, a bill that actually has more controls and more, one might say, safety in it than the first bill did, even though the central premise still is that people have a right and, especially in a developing industry, it is important to have that type of citizen input which would give them the right to waive certain safety requirements they would not waive in time when we are dealing with advanced technology and technology that has already been commercialized.

We thank the distinguished Senator from South Carolina, Mr. HOLLINGS, for helping craft this legislation in the Senate that will ensure that this new industry grows and matures, rather than is strangled in its crib by overregulation. As chairman of the Subcommittee on Space and Aeronautics, I can think of no better way to end my tenure than to see H.R. 5382 become law.

During my 8 years as chairman, I had the privilege to peer into the future to see dynamic citizen astronauts returning to and from the heavens which we can expect in the future. American entrepreneur Dennis Tito ignored the screaming agony of our own space bureaucracy to show the world that space will not be restricted simply to a chosen few. Burt Rutan's tremendous accomplishment last month caught the attention of the world and underscores the innovative and creative potential of space entrepreneurs.

It is my sincere hope that H.R. 5382 will encourage a new breed of private sector astronauts to continue leading the way in pushing the boundaries of technology and safety by building and testing earth-to-space vehicles. This fine piece of legislation carries forward my goal of eliminating and reducing the possibility of some arbitrary redirection or restructuring or abandonment of promising new space endeavors for lack of an enabling regulatory regime or a bureaucracy that wants to protect industry's rights until they are dead and can no longer function.

H.R. 5382 promotes development of an emerging commercial human space flight industry by putting in place a clear and balanced regulatory regime.

Let me add, my colleagues are going to hear today that there is not enough regulation in here to protect the consumer, but if this bill goes down, there will be no regulation to protect the consumer. A vote of no is a vote in favor of eliminating all of the regulatory safety precautions that were put in during negotiations with the Senate.

This bill is drafted as an amendment to the existing Space Commercial Launch Act to minimize disruption and confusion. The bill assigns the Secretary of Transportation jurisdiction over commercial human space flight and requires the Secretary to streamline the certification process for experimental suborbital reusable space launch vehicles. This approach will make it easier to develop new types of space launch vehicles.

The bill also addresses qualifications for crew and space flight participants.

I would like to thank the gentleman from New York (Chairman BOEHLERT), the gentleman from Tennessee (Mr. GORDON) and, as I say, the gentleman from Texas (Mr. LAMPSON) for this tremendous bipartisan effort that we have had, a purely open effort that has been open to any type of input all along. Until now, we have not had any objections except here at the last minute.

I also want to thank the FAA, the House and Senate staff for helping develop H.R. 52382. Their hard work and dedication stands as a shining example of America's cooperative, can-do spirit. Because of the tremendous efforts of all of those involved, H.R. 5382 ensures that regulatory barriers will not hinder the growth of this emerging industry, will not force this industry to go overseas, rather than provide the jobs here and the development of technology here.

This is a very worthwhile piece of legislation. To vote against it is a vote to strangle this baby in its crib. It is a vote to make sure that industry develops overseas instead of here. It is a vote for no regulation instead of reasonable regulation.

I ask my colleagues on both sides of the aisle to join me in supporting this bill, H.R. 5382.

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

Mr. OBERSTAR. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we are engaged in a most extraordinary process here. The chairman of the subcommittee just now said, at the last minute, now we are confronted with proposals for regulation. Well, at the last minute, we have this bill before us. If the gentleman were concerned, Mr. Speaker, about including those who are concerned about safety in flight, the Members on this side of the aisle would have been included much earlier on in this process. The bill was not even introduced until yesterday. We did not have a copy of an introduced bill to look at until yesterday afternoon or evening. That is not the way we work on our Committee on Transportation and Infrastructure. We at least include both parties in discussions.

Now, I want my colleagues to understand the language of this bill. On page 13, line 17: ''Safety regulations. The Secretary may issue regulations governing the design or operation of a launch vehicle to protect the health and safety of crew and space flight participants.'' But, ''Regulations issued under this subsection shall be limited to restricting or prohibiting design features or operating practices that have resulted in a serious or fatal injury to crew or space flight participants.''

Is the gentleman going to include on the space flight ticket the disclaimer there has been no safety provided until after you are dead?

Our committee colleague of some years ago, Mr. Molinari of New York, the ranking Republican on the Subcommittee on Investigations and Oversight at the time when I was chairing hearings and we looked into FAA safety practices, he described FAA's procedure at the time as a tombstone mentality. They act only after there is a fatality.

I do not want to see people dead from a space experiment and then the Federal Government comes in to regulate.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

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

Mr. ROHRABACHER. Mr. Speaker, in the legislation, the gentleman asks whether or not someone should be able to sign off, and the legislation clearly states that someone will have to sign off, knowing that, the risk that he is taking.

I might also ask, the gentleman just read a section of the bill talking about when regulation would be justified. But on line 12 of the very same page that the gentleman was reading from, it suggests that they may come in even if there is a risk. There does not have to be a fatality. There just has to be a risk.

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

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute.

This has been going on for 2 years. This has been a bill that we have worked on, and the people on the Committee on Science and the Subcommittee on Space and Aeronautics on both sides of the aisle have struggled with this for 2 years. During that entire time, we were always open to any type of discussion. We were in contact with the Committee on Transportation.

Also, let me add, talking about it not being last minute, this bill passed the House in March of 2004, months and months ago, by 402 to 1. At that time, if there were any problems with the bill, we would have been more than happy, in fact, we were more than happy to try to renegotiate the bill, which we did in the Senate, and Senator HOLLINGS raised some of the objections of my good friend, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I would respectfully say to the chairman, our side was never included, never advised, and when the bill passed the House in March of this year, it did not have any reference of this nature to safety.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 30 seconds.

This part of the bill, actually, the House voted on a bill that did not contain as much safety regulation as this bill does, and no one on that side of the aisle opposed it then. Now, after we have included safety provisions by Mr. HOLLINGS' consideration, now it is objected to.

Let me note, if this bill goes down, there will be no safety regulations. So a vote no is a vote for no safety regulations.

Mr. Speaker, I yield 4 minutes to the chairman of the full Committee on Science, the gentleman from New York (Mr. BOEHLERT).

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

I rise in strong support of this bill, which is the result of laborious and painstaking bipartisan negotiations between our committee and the Committee on Commerce, Science, and Transportation in the other body.

This bill tries to strike a delicate balance between the need to give a new industry a chance to develop brand-new technology and the desire to provide enough regulation to protect the industry's customers.

□ 1415

We think we have struck that balance and here is why. First, the bill gives the Federal Aviation Administration clear authority for the first time to regulate the commercial human space flight industry.

Second, the bill gives the FAA unlimited authority to regulate the industry and its rockets to make sure they do no harm to third parties, that is, people on the ground or in the air who are in no way involved with the flight.

Third, the bill sets a clear timetable for when FAA will have unlimited authority to regulate the industry and its rockets to make sure they do no harm to the people on board.

But here is what the bill does not do. It does not allow the FAA right now to guess whether some new untested rocket technology will do harm to the people onboard. Why? Because this industry is at the stage when it is the preserve of visionaries and daredevils and adventurers. These are people who will fly at their own risk to try out new technologies. These are people who do not expect and should not expect to be protected by the government. Such protection would only stifle innovation.

So instead of allowing FAA guesswork for the next several years, the bill requires that anyone participating in launch, whether it is crew or passenger, must be notified of all risk of flight and must be told explicitly that the government has not certified the vehicle as safe for crew or passengers. And the FAA can come in and prohibit rocket designs and operational procedures that have already been shown to fail.

Now, obviously, this Wild West or barnstorming or infant industry state of affairs cannot obtain forever, if the commercial space flight industry is to become more than an expensive and risky novelty. Safety must increase, and gradually the industry will start to look more like a common carrier. And that is why the bill allows FAA after 8 years to regulate commercial space flight in pretty much the same way it regulates the airline industry. But it seems to me kind of silly to regulate Burt Rutan's vehicle, which has flown three times, as if it was a Boeing 747. If we regulate it that way, then his craft will never evolve into the equivalent of a 747.

So we have a balanced bill that will enable the commercial space flight industry to experiment, and that will encourage the industry to constantly improve its record of safety, so that within a relatively short time, its technology will mature and customer base will grow to the point that more regulation is warranted.

I want to thank our outgoing subcommittee chairman, the gentleman from California (Mr. ROHRABACHER), for keeping after all of us on this bill. He has been tenacious. I also want to salute the distinguished gentleman from Texas (Mr. LAMPSON) for his leadership and perseverance. I want to thank also the chairman of our other committee, the gentleman from Alaska (Mr. YOUNG) of the Committee on Transportation and Infrastructure, for discharging this bill.

Mr. Speaker, I urge all of my colleagues to support this sensible, balanced bill which will facilitate the development of a new industry that will expand the horizons of all Americans.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, November 18, 2004.

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

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 5382, the Commercial Space Launch Amendments Act of 2004.

Our Committee recognizes the importance of H.R. 5382 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not 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 Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Congressional Record.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE,
Washington, DC, November 18, 2004.

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

DEAR MR. CHAIRMAN: I appreciate your decision to support H.R. 5382, the Commercial Space Launch Amendments Act of 2004. Your Committee has valid jurisdictional interests in the bill as drafted.

I recognize that by forgoing a referral in this instance, your Committee does not waive any rights involving provisions within your Committee's jurisdiction. Per your request, I will include copies of this exchange of letters in the Congressional Record during debate on the House Floor.

I will continue to work with you to define the respective jurisdiction of our Committees over this bill.

Thank you for your consideration regarding this matter.

Sincerely,

SHERWOOD L. BOEHLERT,
Chairman.

Mr. OBERSTAR. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. DEFAZIO), our ranking member on the Subcommittee on Aviation.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time. We all salute the innovation and the achievement that we have recently seen in the early days of private space flight, and we certainly do want to encourage that. But we go a little bit too far in this legislation.

I do not understand why the committee has inserted the references to paying passengers and that we would not regulate until after the serious injury or death of paying passengers. It took me a decade here in Congress to strip the FAA of its requirement to promote the industry. That was something adopted in the very early days. It seems to be similar to what is going on here, to say that in the early days the Civil Aeronautics Board would have a charge of promoting the industry and later regulation became more paramount. But up and to and through the 90s until a tragic accident with then Air Tran, the industry was both regulated and promoted by the same agency. I promoted it out for years as a conflict. And it was only after that incident that we finally changed the language and said, no, it would be paramount that they would regulate in the interest of public health and safety.

But here we are again trying to codify the old so-called ''tombstone mentality'' of the FAA by including paying passengers. It is one thing to say, here is someone who invented something or built something and they are going to try and fly it at their own risk here or here is a professional person who is going to try to fly something that was built by this person, fully knowing the risk; but it is another thing to begin to say paying passengers will fall under the same aegis in this bill.

This was not considered by the Subcommittee on Aviation in any form over the last 2 years. It was never referenced to the Subcommittee on Aviation over the last 2 years. There may have been some communication somewhere with some member of the staff or between some member of that committee and some member of our committee, but not the Subcommittee on Aviation who has jurisdiction over these matters.

So I would suggest that there is not an immediate crisis. There is no reason that this bill must be rushed through today in this form. It could well be passed next year. The liability provisions exist elsewhere and would be continued elsewhere, and then we could have a more thorough discussion of when it would be appropriate to begin to regulate for the health and safety of passengers on these space crafts, that is, I think something that is not wise to codify today because it took us from 1932 or 1933 until 1996 to remove that provision in regards to the FAA, 64 years or so that that carried over.

Even though it was long after the time when the industry needed promotion or the FAA should be conflicting itself with promoting the industry, they were still doing that. And people died because of that. And it may not be in the next year or two, but 8 years is a pretty long time to say we are going to go 8 years before there could be any regulation regarding paying passengers.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

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

Mr. ROHRABACHER. I believe that the same level of that same criteria that the gentleman is talking about was in place when airplanes themselves were developing; but we would have had that same level of progress in the development of aviation. Does the gentleman not believe if we had the same level of regulation then that we have now would have just stifled all sorts of creativity at a time when people knew they were taking risks?

My father, I remember when he told me he got in on a plane that flew in on a dirt road and they charged $5 to get on this plane. It was an old World War I SPAT or something. It excited him so much about being able to participate, and because of that we had a whole new industry created because of that.

Mr. DEFAZIO. Reclaiming my time, here we would be looking at presumably much wealthier people paying gigabucks to have the experience. But still I think the point is that it is not necessary to attract entrepreneurs. There are already entrepreneurs out there experimenting. There are professional pilots out there willing to fly these crafts. But to take the next step and say to paying passengers who may or may not be a very knowledgeable and wealthy person or someone of lesser means would be subjected to those risks without any regulation. It just does not seem necessary to promote this industry at this point in time.

It is already moving forward. The liability exemption I believe is the key. But to say that if they are going to go to paying passengers, they could not be regulated, I think that is kind of a bright line where we could draw a line and agree.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 30 seconds.

People who are spending $200,000 or $100,000 to go into space, they are responsible enough to make a decision as to whether or not to take the risk, rather than having the government trying to say there will be no such people, and thus that contribution, that amount of money that would be available to developing new craft will no longer be available.

The rich people around the world would like to spend $100,000 or $200,000. That could help us develop new types of space craft rather than relying on the government and the taxpayer to come up with all the loot in developing new crafts.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LAMPSON), a real activist on our committee and who will be sorely missed, who, I might add, has championed a space agenda much of which was incorporated into the President's own space agenda later on. He will be sorely missed.

Mr. LAMPSON. Mr. Speaker, I thank the gentleman from California (Mr. ROHRABACHER). It has been a pleasure working with him and the gentleman from New York (Mr. BOEHLERT) and on the Committee on Science and on the Subcommittee on Space and Aeronautics. Actually, it has been a tremendous pleasure working with the gentleman from Minnesota (Mr. OBERSTAR) on the Committee on Transportation and Infrastructure as well.

These things, hopefully, will be able, these concerns, will be able to be addressed if this makes it back into the next session of Congress.

I do want to speak in support of H.R. 5382, a bill to promote the development of the emerging commercial human space flight industry.

I was an original co-sponsor of an earlier version of this bill, H.R. 3752, which passed earlier this year and we have already heard spoken about.

While the idea of a commercial human space flight industry might have seemed like science fiction, like a science fiction dream even a few years ago, the recent successful flights of Burt Rutan's Spaceship One show that the dream may be truly moving toward reality.

So the basic purpose of H.R. 5382 is to establish a framework for regulating the emerging commercial human space flight industry. The Committee on Science has heard ample testimony that such a framework is needed if the companies are to make their plans and attract needed investment capital. At the same time, Congress needs to ensure that safety is protected as this new industry emerges.

One of the challenges in developing this legislation has been in striking an appropriate balance between encouraging innovation and providing sufficient safety regulation of this emerging industry. In that regard, our discussions with the Senate have led to language that clarifies that we care about both the growth of new industry and the protection of the crews and the passengers of these new vehicles.

Mr. Speaker, when we debated the original version of this bill on the floor earlier this year, I agreed with those who believed that there were still some areas that could be improved on. While there are always further improvements that can be made, I think that our subsequent discussions with the Senate have led to a solid piece of legislation.

I think that the legislation before us represents the most feasible compromise possible in this session of Congress. If it makes it into the next session of Congress for discussion again, I hope that we will work in as bipartisan a manner as we possibly can so we can address all of the concerns of all of our Members so it will be moved forward to provide a good framework for regulation.

I want to commend, again, my friend, the gentleman from California (Mr. ROHRABACHER), for his persistence and initiative on this issue. I urge my colleagues to support H.R. 5382.

Mr. OBERSTAR. Mr. Speaker, how much time is left on each side?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Minnesota (Mr. OBERSTAR) has 12 minutes remaining. The gentleman from California (Mr. ROHRABACHER) has 5 minutes remaining.

Mr. OBERSTAR. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I, too, greatly regret the departure from this body of the gentleman from Texas (Mr. LAMPSON) who has been a great Member of this people's body and who among many other issues in which he has distinguished himself has led the cause of missing and exploited children, a cause that reaches throughout this great land and is a great tribute to his very noble personal character, a genuine concern for those who have been taken against their will, children exploited, tortured and killed.

The gentleman will have a legacy from this body that will not be surpassed in that arena. I thank the gentleman for his great contribution.

I listened with great interest to the concern of the gentleman, chairman of the subcommittee, ''that this industry will be strangled in its crib by overregulation,'' to the chair of the full committee who said, ''Protection would stifle innovation,'' who said, ''It would be silly to regulate Burt Rutan's vehicle.'' I do not think safety regulation is ever silly.

□ 1430

I do not think we have ever overregulated safety.

For the record, I just want to state the language that had we been given the opportunity to present we would have submitted, which is very simply, on page 14 of the bill before us delete lines 4 to page 15, line 7, replace with the following: Prescribe minimum standards necessary for safety of design featuers and operation of a launched vehicle, taking into account the inherently risky nature of human space flight.

That is not a straitjacket. That is not strangling in its crib. That is not language that I would, in any way, associate myself with for commercial aviation. But in this era of uncertain exploration of space for commercial purposes and carrying passengers, not scientists and astronauts, I think we could put that language in, taking into account the inherently risky nature of space flight. It gives a great deal of latitude in the early regulatory period of this commercial space launch activity. That is not protecting, as the gentleman called it, the Chairman, protecting industry until they are dead.

On the contrary, I propose to put in place a regulatory framework of at least a minimal stature to protect people before they are dead. That is the issue.

I had a discussion pursuant to the request of the chairman of the full committee and chairman of the subcommittee with the advocates for this technology, the representative of Xcor company and their attorney representing the company here in Washington, and their concern was FAA might not have the technology skills to deal with new materials, new engines, new power plants, a new class of vehicle. They would be groping around with this new class of vehicle and would not think creatively.

Oh, my goodness. After all, the FAA is under the jurisdiction of this administration, and if they are not thinking creatively, I think we would have some ability to encourage them to do so.

Secondly, the FAA, with a regulatory safety framework in place, approved the entry into service and development of the new jet aircraft in 1958, within a regulatory framework. Jet aviation did not stifle, was not strangled in its crib by overregulation.

When technology brought new materials, composites to be used in tail sections and wing sections, FAA did not strangle that new technology in its crib but nurtured it along in a safe manner so that it could be safely deployed.

When a general aviation aircraft manufacturer who is located in Minnesota proposed an all-composite general aviation aircraft that had never been attempted before, this regulatory framework of safety worked with this company, and in 5-years that aircraft was certificated, built, flying, and Cirrus Aviation is now the largest general aviation aircraft manufacturer in the world. They were not strangled in their crib. They were not suffocated, and no passenger has died because of a safety framework put in place.

We do not propose to strangle industry but rather to protect the public.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding.

I would like to reflect on the compromise language he talked about, and, again, since we have not gone through a regular legislative process here, since our committee had no opportunity to review this and it is not amendable on the floor and they would not accept that in good faith, let me point to an unintended effect here.

The way the bill is written, they are granting a blanket exemption to the industry, including paying passengers, until such a point as there is a serious injury or death, and then the full scope of the FAA's current regulations would come to bear.

What the gentleman is proposing here would essentially sanction the experimentation with lighter touch regulation at the outset, and I think that that might actually get us further down this road than what is being proposed here. But the unwillingness of the other side to even consider the implications of extending this to passengers and then whether or not that ever gets sunset or it takes some Member of Congress half a century from now to get that stripped from law, because you know it is 8 years in this bill, but then I can see it being extended and extended and extended and becoming a mature industry, just as the aviation industry did, with that provision still in place, until there is a horrible tragedy.

So I think having this light touch regulation for public interest and safety at the outset, given the expertise of the FAA, would be preferable to all concerned, and it would not stifle or strangle the industry in its nature.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

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

Mr. ROHRABACHER. Mr. Speaker, my colleagues have been suggesting over and over again that the FAA will be restricted from any regulation unless someone has died, and I believe that is an inaccurate reading of this bill.

Mr. OBERSTAR. Mr. Speaker, reclaiming my time, the language of the bill is limited to restricting or prohibiting design features or operating practices that have resulted in serious or fatal injury.

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, in the paragraph right after that says ''or'' at the end of the paragraph the gentleman is reading, or contributed to an unplanned event or series of events after licensed or permitted commercial human space flight that posed a high risk concerning a serious fatality.

What that means is that if there is a chance, if there is something to indicate——

The SPEAKER pro tempore (Mr. KLINE). The gentleman will suspend. The gentleman from Minnesota's (Mr. OBERSTAR) time has expired. There are 4 minutes remaining for the gentleman from Minnesota (Mr. OBERSTAR), and there are 5 minutes remaining for the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1 minute to finish this point.

Obviously, the gentleman is reading one paragraph, but the very next paragraph negates the criticism of the bill, and that is the very next paragraph underneath the one he is reading suggests that if there is a reason for the FAA to be concerned, if there is a flaw that can be pointed out, then it may step in to prevent a fatality or a serious accident.

The question is whether the FAA and the bureaucracy should be able to control the design of a new space launch vehicle before there are any problems. Should then the space launch bureaucrats, the people who are in government, who are in public service override the entrepreneur, overside the scientist, override the experts and should they be in the pilot seat even if there is no indication that there is any problem with the design?

Now I think that would strangle the baby in the crib. In fact, it would destroy this fledgling industry and send it overseas.

What we are talking about is an aerospace industry that needs all the help it can get being limited from anybody paying for a flight and then sending their job overseas. That makes no sense at all.

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

Mr. OBERSTAR. Mr. Speaker, I yield myself 2 minutes.

Let us read further. After the language in the bill that says regulation shall be limited to restricting or prohibiting design features or operating practices that have resulted in serious or fatal injury to crew or space flight participants, it goes on to say, or contributed to an unplanned event or series of events. There is a whole series of conditions after this, but it is still subject to the first language that says you have got to die first, serious fatal accident, and I do not agree with what the gentleman is saying, that this is going to strangle.

First of all, we have time to come back next year in due course, in careful, thoughtful deliberation, in public hearings to expose this issue, have a discussion of it and report a bill back to the House with the appropriate safeguards and appropriately designate it the Rohrabacher space commercial space amendments bill so that the gentleman's parentage will be protected, but we should not have that parentage associated with fatalities.

Why would the gentleman object? Why would the gentleman not have discussed with us the safety issues when it

is the jurisdiction of this committee, and we do have some experience and expertise with it, give us appropriate time during this very rushed period?

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

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

Mr. ROHRABACHER. Mr. Speaker, the bill was referred to the Committee on Science and referred to the Subcommittee on Space and Aeronautics. We have spent 2 years of hard work on this. It was common knowledge in this body that this bill was in this committee. It was referred to us officially. It even came for a vote on the floor so that between that time we could have negotiated.

But let me note, before the bill passed on the floor there were two public hearings, a policy roundtable with the experts from all over the country and 6 months to negotiate.

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

Mr. ROHRABACHER. Mr. Speaker, I yield myself 1½ minutes. Let us take a look at what this bill will do and what is going to happen if it is voted down.

If this bill is voted down, we are told to vote this bill down because there is not enough regulation in the bill, regulatory power given to the FAA in the bill to protect the public. Well, there is protection in the bill, and there would be no protection, zero protection, if this bill goes down.

Voting against this bill will also expose the Federal Government to liability for licensed launches. All of a sudden, we have a situation where it is not a question of whether or not we are going to have something a year or 2 from now, after some magical time period, after working on this 2 years, if it is just brought back next year, after a short period of time, the problems will be solved. We are going to go through a time period when we basically have zero protection, and the Federal Government will be totally exposed to liability claims.

This bill will basically convince people who want to create this new industry, the space launch industry, that they should not do it in the United States of America. They will go overseas. This will strangle the industry in the cradle, as I said over and over again, and it will force these people to launch their rockets and build them overseas.

I would say that this bill actually prevents the government from regulating passenger safety, and this bill will go, yes, maybe not all the way we want, but we can come back in the next few years and add what we want. But, right now, to kill this bill would be totally going in the wrong direction.

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

The SPEAKER pro tempore. The gentleman from California (Mr. ROHRABACHER) has 2½ minutes remaining. The gentleman from Minnesota (Mr. OBERSTAR) has 2 minutes remaining.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

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

Again, we could move forward with the liability exemptions absent this language, and the gentleman says that that would then mean that there would be a more dangerous situation prevailing, or is he perhaps saying we would not do the liability at all? Is that what he is saying, we would do nothing? Why not just move forward the liabilities, absent these provisions and these exclusions in the current legislation?

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

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

Mr. ROHRABACHER. Mr. Speaker, if I might add, because it puts the government and it puts the bureaucracy in the control of the project, rather than the designer, the entrepreneur and the scientist.

Mr. DEFAZIO. Mr. Speaker, how did we get to this point? If the government is so in control, how did they have this first flight if the government is overregulating and overcontrolling them?

Mr. ROHRABACHER. If the gentleman would further yield, that is what happens when we give the government the right to say yes or no to people who are making new designs on technology.

Mr. DEFAZIO. Mr. Speaker, reclaiming my time, if we just extended the existing liability exemptions and we were silent on these other issues, how would that be different than the circumstances which led to these first flights?

□ 1445

Mr. ROHRABACHER. How much time remains, Mr. Speaker?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from California (Mr. ROHRABACHER) has 2½ minutes remaining, and the gentleman from Minnesota (Mr. OBERSTAR) has 1 minute remaining.

Mr. ROHRABACHER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT), the chairman of the full Committee on Science.

Mr. BOEHLERT. Mr. Speaker, let me remind my colleagues that the House passed earlier this year, by a vote of 402 to 1, an earlier version of this bill that gave the FAA less regulatory authority over commercial human space flight than does the bill before us today. Without this bill, the FAA will continue to license private space flights without adequate authority to protect either the safety of the public or the finances of the government. Please support H.R. 5382, just as you voted for the initial version back in March.

Today's bill is the equivalent of a conference report, as it reflects bipartisan negotiations within this body and with the other body. This is good legislation; let us move it forward. Let us not stifle it. Let us not take the position of the equivalent of not letting the Wright Brothers test their ideas without first convincing Federal officials that nothing could go wrong.

Mr. OBERSTAR. Mr. Speaker, I yield myself the balance of my time in recognition that the other side has the right to close.

Yes, this bill was considered by the House earlier this year, but without this language; without any reference to safety and without any consideration.

And I disagree that there is no protection if this language were stricken. Under current law, and I am familiar with the commercial space flight activities of DOT and FAA, under current law, the DOT must issue a license to launch; and in the process of issuing that license to launch can insist on safety regulations if it takes an assertive stance and is concerned about safety of flight for experimental personnel and for commercial passengers.

But, again, I come back to our very modest proposal of language that, had we been included in the discussions that have been going on between the Committee on Science in the other body, if our side would have been included, we would have proposed language to prescribe minimum standards necessary for safety of design features and operation of a launch vehicle, taking into account the inherently risky nature of human space flight.

We can defeat this bill and come back later tonight with an amended version and fix it, or come back in the next Congress and do it right. Let us not do tombstone safety.

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

Mr. Speaker, I believe the opposition to this bill is coming from a fundamental misunderstanding of what the bill actually is all about, and there is some argument to say that Members, that the gentleman's committee was not engaged in this bill and, thus, he is upset about that and such and, thus, you do not understand it.

The fact is this bill is very clear. The staff of the Committee on Transportation and Infrastructure was always available to look at what we were doing. This was an open process. We have had negotiations on both sides of the aisle. The gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. LAMPSON) played important roles in developing this, as have all the Democrats on our committee. This has been a totally bipartisan effort.

But, Mr. Speaker, there is a misread that we are hearing today. We are hearing that the opposition comes from the fact that, well, the FAA can already regulate. That is a total misreading of what their FAA regulations are. The FAA can only regulate in terms of the safety of people who are not on that craft, meaning the safety

of the people on the ground. They cannot regulate based on the safety of people on the craft. That is what this is all about.

We want to develop spacecraft that people can ride on. And if we have the bureaucrats being able to control that, it will put a stranglehold on those people trying to develop these craft. It is fundamentally different than what the FAA has now with airplanes.

And, also, we have heard a total misreading of the bill again and again that there is no right in here for there to be regulation unless there has already been a fatality. That is not the case.

I urge Members to vote for this legislation. Do not strangle this industry and drive these entrepreneurs offshore. Create the jobs here.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 5382.

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. OBERSTAR. 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.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1078

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1078, the American History and Civics Education Act of 2003.

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

There was no objection.

RECESS

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

Accordingly (at 2 o'clock and 49 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1928

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 7 o'clock and 28 minutes p.m.

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 the remaining motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

EXTENSION OF MEDICARE COST-SHARING FOR THE MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS THROUGH SEPTEMBER 2005

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2618) to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

The Clerk read as follows:

S. 2618

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

SECTION 1. EXTENSION OF MEDICARE COST-SHARING FOR THE MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''2004'' and inserting ''2005''.

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of the Social Security Act (42 U.S.C. 1396u–3(g)) is amended to read as follows:

''(g) SPECIAL RULES.—

''(1) IN GENERAL.—With respect to each period described in paragraph (2), a State shall select qualifying individuals, subject to paragraph (3), and provide such individuals with assistance, in accordance with the provisions of this section as in effect with respect to calendar year 2003, except that for such purpose—

''(A) references in the preceding subsections of this section to a year, whether fiscal or calendar, shall be deemed to be references to such period; and

''(B) the total allocation amount under subsection (c) for such period shall be the amount described in paragraph (2) for that period.

''(2) PERIODS AND TOTAL ALLOCATION AMOUNTS DESCRIBED.—For purposes of this subsection—

''(A) for the period that begins on January 1, 2004, and ends on September 30, 2004, the total allocation amount is $300,000,000;

''(B) for the period that begins on October 1, 2004, and ends on December 31, 2004, the total allocation amount is $100,000,000; and

''(C) for the period that begins on January 1, 2005, and ends on September 30, 2005, the total allocation amount is $300,000,000.

''(3) RULES FOR PERIODS THAT BEGIN AFTER JANUARY 1.—For any specific period described in subparagraph (B) of paragraph (2), the following applies:

''(A) The specific period shall be treated as a continuation of the immediately preceding period in that calendar year for purposes of applying subsection (b)(2) and qualifying individuals who received assistance in the last month of such immediately preceding period shall be deemed to be selected for the specific period (without the need to complete an application for assistance for such period).

''(B) The limit to be applied under subsection (b)(3) for the specific period shall be the same as the limit applied under such subsection for the immediately preceding period.

''(C) The ratio to be applied under subsection (c)(2) for the specific period shall be the same as the ratio applied under such subsection for the immediately preceding period.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Massachusetts (Mr. OLVER) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. 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 this legislation.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to, first of all, commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN) for helping to expedite this piece of legislation. They could not be on the floor, so we have the distinguished gentleman from Massachusetts who is going to control their floor time, and I want to thank him for his help.

I am reluctantly doing this this evening, not because of the merits of the bill. I support the merits of the bill, but I do not support the procedure under which we are doing this and the reluctance of the other body to find a way to help pay for what we are about to do.

□ 1930

This Congress should be taking serious steps to address our budget problems and our growing Federal debt. The President who just won reelection, 52 percent of the vote, has told America that deficit reduction will be one of his highest priorities, and I would like to have the other body begin to join this body and the President of the United States in making that a reality.

Senate 2618 is a good bill. It will extend for one year additional funding for the Medicare Qualified Individual Program, better known as the QI program. This program will allow approximately 160,000 low-income beneficiaries enrolled in the program to continue to receive assistance to pay for their Medicare part B premium which is optional. That is fair and appropriate.

We began to help subsidize those premium payments back in 1997, so we have been doing it now for the last 7 years. I support that. I think it is appropriate to help our low-income seniors help pay for their Medicare option part B coverage, but I also think we ought to have a way to help pay for that subsidy. This bill does not do that.

I think we need to begin to address the problem of mandatory automatic

entitlement growth, and to extend a program like this where we could have an offset to pay for it, in my opinion, is inexcusable.

It has been said that nobody notices a deficit until its weight finally collapses the government. I do not intend to ever let that happen, and we could be taking a small step to lessen that load today. Regrettably we are not.

Let me state what we have done in the last 2 weeks. Again, the underlying bill that we are passing is a good piece of legislation, and I support that. The Speaker of the House supports it. The majority leader supports it. The ranking member on the Committee on Energy and Commerce, the ranking member on the subcommittee, the subcommittee chairman, the full committee chairman, we all support it; but we found a way to pay for this bill. We found out that under existing law people that receive prescription drug benefits that are paid for by Medicare, the person that actually provides a prescription can file paperwork to get an automatic rebate from the drug manufacturer. It is in the law. We do not force the person who is providing the prescription to actually apply for the rebate. So we have some providers of prescriptions who for whatever reason do not fill out the necessary paperwork to get the automatic rebate that has already been negotiated.

The offset that we came out with in the House was to simply say that if there was a drug rebate that had already been negotiated, you had to file for it and receive it so you could give that rebate to the State and the Federal Government. That would save approximately $140 million over the life of the extension. The White House supported it. CNS supported it. The House supported it, but the other body did not support it. They wanted to extend the program but not provide an offset to help pay for the extension.

Now, I offered this afternoon to pull this bill back and try to work out something that when we first got back in the next Congress we could do the offset. The Speaker and the majority leader felt like we needed to go ahead and pass this bill this evening, and I am going to go ahead and do that. It is a good bill. It needs to be passed. We need to provide this additional supplemental assistance for low-income seniors to pay for their part B prescription drug benefit. But this is the last time as chairman of the Committee on Energy and Commerce that I am going to extend an entitlement program without some sort of an offset.

So for tonight we can say that this is the beginning of the Barton doctrine. I hope in the next year or so it becomes the Bush-Hastert-Frist, even the Pelosi, redoctrine, that we can work on a bipartisan basis, bicameral with the administration, that as we extend the existing entitlement programs and create new ones, we come up with a way to pay for them. But for this evening I rise to support the passage of this bill.

It will provide much needed assistance for 160,000 low-income seniors for the next year. In the next year, I am going to work with interested parties in the administration, the other body and this body to come up with reforms that continue these necessary benefits but also come up with a way to pay for them.

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

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

Mr. Speaker, I wish to confirm what the gentleman from Texas (Mr. BARTON) has already indicated, that the ranking member of the Committee on Commerce is in full support of this bill.

The chairman has also indicated that the ranking member of the subcommittee, the gentleman from Ohio (Mr. BROWN), is in full support of the legislation, and I think that indicates that the Committee on Commerce members on our side of the aisle are in support of the legislation, and I think our whole caucus would be very supportive of that legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of this legislation to reauthorize the Qualified Individual program, or QI. This program helps low-income Medicare beneficiaries, who earn just a little too much to qualify for Medicaid assistance, but are still struggling with living and health care costs. The QI program pays the cost of the Medicare Part B premium for seniors with incomes of approximately $11,000 to $12,500 a year. This is a good program that helps thousands of low-income seniors each year.

The initial program was a block grant enacted in 1997. Because it expired in 2002, Congress has had to reauthorize this program a number of times since then. However, the uncertainty surrounding funding for this program has had a dampening effect on enrollment. States are hesitant to reach out to eligible individuals, resulting in artificially low enrollment figures. I hope that my colleagues across the aisle will join me in fixing this problem in the future—but, I am pleased that we are at least extending this program an additional year, through September 2005.

I thank Senators GRASSLEY, BAUCUS, BINGAMAN, LAUTENBERG, and SMITH for their work in the Senate, and thank Chairman BARTON, Chairman BILIRAKIS, and Ranking Member BROWN for their work in the House.

Mr. ISRAEL. Mr. Speaker, this past September I was contacted by officials in the two counties that I represent urging me to do everything I could to extend the Qualifying Individual–1, QI–1, program. This important program gives Federal money to State Medicaid programs to pay for the Part B premium for low-income seniors. They stressed extending the program is particularly important this year as the Medicare Part B premiums are increasing over 17 percent from $66.60 to $78.20.

Medicare Part B is theoretically voluntary, but in reality is necessary for any senior who does not have some form supplemental insurance. Medicare Part B covers outpatient services, doctor visits, and other health care services not covered by the Hospital Insurance component of Medicare Part A.

Unfortunately, seniors must pay a premium for Medicare Part B. Low-income seniors live on very tight budgets. If Congress allowed this program to expire, there would be a number of low-income seniors who would have to decide if the monthly $78.20 would be better spent on food rather than on their health care premium.

I responded to local officials by introducing legislation that would extend this program for another year. My legislation is identical to the Senate bill that we are voting on today. It extends this vital program for another year, and I am proud to have sponsored it in the House.

I was not the only Member to respond to this call. Representative JIM SAXTON and I both introduced this bill. Two Members of Congress in different parties introducing the same bill shows the universal support for this bill.

The QI–1 program has been to the brink of expiring before. It was enacted as part of the Balanced Budget Agreement of 1997 and was originally scheduled to expire in December of 2002. Since the program has proved to be vital for low-income seniors, it has been extended a number of times through continuing resolutions, TANF reauthorization, and it was last extended in the Medicare Modernization Act. The last extension expired on September 30, 2004; however, it was extended through a continuing resolution through November 20, 2004.

I am very happy and relieved that QI–1 program will be extended for another year. It is my hope that next year, Congress will enact legislation that permanently extends this program. Our low-income seniors and their advocates should not be made to deal with the emotional roller coaster each year, while this program comes so close to ending.

I urge my colleagues to pass this legislation and I look forward to working with them to enact legislation that makes this program permanent.

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

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

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the Senate bill, S. 2618.

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.

PETRIFIED FOREST NATIONAL PARK EXPANSION ACT OF 2004

Mr. RENZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1630) to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

On page 2, line 9, strike ''June'' and insert ''July''.

Mr. RENZI (during the reading). Mr. Speaker, I ask unanimous consent that

the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL VISITING NURSE ASSOCIATION WEEK

Mr. MURPHY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 8) expressing the sense of Congress that there should be established a National Visiting Nurse Association Week, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the consideration of the concurrent resolution?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 8

Whereas visiting nurse associations (''VNAs'') are nonprofit home health agencies that, for more than 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering more than 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of a National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week of May 2005 is an appropriate week to establish as National Visiting Nurse Association Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that there should be established a National Visiting Nurse Association Week.

Mr. MURPHY. Mr. Speaker, I rise in support of S. Con. Res. 8, a resolution to establish an annual National Visiting Nurse Associations Week in honor of these health care heroes who are dedicated to service in the ultimate caring profession.

The Visiting Nurse Associations, VNAs, of today are founded on the principle that people who are sick, disabled and elderly benefit most from health care when it is offered in their own homes.

Home care is an increasingly important part of our health care system today.

The kinds of highly skilled—and often technically complex—services that the VNAs provide have enabled millions of our most frail and vulnerable patients to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes.

They made a critical difference when they started in the late 19th century, and are making a critical difference now as we embark upon the 21st.

There currently are approximately 500 VNAs nationwide.

Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing health care into the homes of an estimated 3 million Americans every year.

VNAs are truly the heart of home care in this country today, and it is time for Congress to recognize the vital services that visiting nurses provide to their patients and their families.

I urge my colleagues to support this resolution establishing an annual National Visiting Nurse Associations' Week.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

DONALD G. BROTZMAN POST OFFICE BUILDING

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 5370) to designate the facility of the United States Postal Service located at 4985 Moorhead Avenue in Boulder, Colorado, as the ''Donald G. Brotzman Post Office Building,'' and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 5370

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

SECTION 1. DONALD G. BROTZMAN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4985 Moorhead Avenue in Boulder, Colorado, shall be known and designated as the ''Donald G. Brotzman Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Donald G. Brotzman Post Office Building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY. 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. Con. Res. 8 and H.R. 5370.

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

There was no objection.

HONORING THE LIFE OF ASTRONAUT LEROY GORDON COOPER, JR.

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that the Committee on Science be discharged from further consideration of the resolution (H. Res. 847) honoring the life of astronaut Leroy Gordon Cooper, Jr., and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 847

Whereas Leroy Gordon Cooper, Jr., was born on March 6, 1927, in Shawnee, Oklahoma;

Whereas Gordon Cooper served as a colonel in the United States Air Force and was selected as one of the original Project Mercury astronauts in April of 1959;

Whereas, when Gordon Cooper piloted the Faith 7 spacecraft on the final operational mission of Project Mercury from May 15 to May 16, 1963, he traveled a total of 546,167 statute miles and became the first astronaut from the United States to spend more than a day in space;

Whereas, when Gordon Cooper served as command pilot on the 8-day 120-orbit Gemini 5 mission that began on August 21, 1965, he and pilot Charles Conrad established a new space endurance record by traveling a distance of 3,312,993 miles in an elapsed time of 190 hours and 56 minutes;

Whereas Gordon Cooper was the first man to go into space for a second time;

Whereas Gordon Cooper served as backup command pilot for the Gemini 12 mission and

as backup commander for the Apollo 10 flight;

Whereas Gordon Cooper logged 222 hours in space and retired from the Air Force and the National Aeronautics and Space Administration in 1970;

Whereas the special honors Gordon Cooper received during his lifetime included the Air Force Distinguished Flying Cross, the National Aeronautics and Space Administration Distinguished Service Medal, and the John F. Kennedy Trophy; and

Whereas Gordon Cooper passed away at his home in Ventura, California, on October 4, 2004, at the age of 77: Now, therefore, be it

Resolved, That the House of Representatives honors the life of astronaut Leroy Gordon Cooper, Jr.

Mr. BALLENGER. Mr. Speaker, during this Congress, the President has laid out a bold plan to return men to the moon and then go on to Mars as we begin to explore the wonders of our solar system, a vision that would not be possible were it not for a group of exceptional men who stepped forward to accept our Nation's Manifest Destiny of the 20th century. In those very early days some 45 years ago, we were behind in the race into space. The Russians had put the first satellite into orbit, sent the first living creature into space, and were the first to send an object to the Moon. American prestige was suffering around the world, and President Eisenhower and the Congress realized that things had to change.

In response to that challenge, they created NASA and along with it, Project Mercury, the initial step that got us to the moon first. But those were difficult days. Our scientists and engineers were struggling to build rockets that were capable of lifting the heavy payloads needed to get us there, and those rockets would explode in gigantic fireballs almost as often as they didn't. Being strapped inside a flying bomb and hurled into space at 17,000 miles an hour was hazardous duty of the highest order, but in April 1959, the Nation chose seven courageous men who were willing to put the interests of the Nation ahead of their own.

One of these was Leroy Gordon Cooper, Jr., a native of Shawnee, OK, a colonel in the U.S. Air Force and a test pilot who logged more than 7,000 hours flying time—4,000 of which were in jet aircraft. They called him "Gordo", and in May 1963, he became the first American to orbit the earth for more than a day. Two years later along with astronaut Peter Conrad, Gordon Cooper set a new space endurance record by traveling more than 3 million miles as the command pilot of the Gemini 5 mission and demonstrated for the first time that men could live and work in space long enough to make the trip to the Moon and back.

He continued to support our national goal of landing a man on the Moon by serving as the backup command pilot for the Gemini 12 mission in 1966 and as backup commander for the Apollo 10 trip to the moon in 1969, logging a total of 222 hours in space and receiving a number of special honors along the way before he retired in 1970.

Mr. Speaker, I remain convinced that the exploration of space in many ways holds the key to our future here on earth. Just as it was when Gordon Cooper first went into space more than 40 years ago, space travel remains a dangerous business. We have experienced some setbacks along the way, and yet it remains our destiny. In future years as we explore the moon and beyond, the successes that we will enjoy and the wonders that we will find on the other side will have been made possible by the courage and devotion to country of men like Gordon Cooper, and it is with great pleasure that I rise today in support of House Resolution 847 to honor his gifts to our Nation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALLENGER. 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. 847.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of the legislative business.

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 gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her 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. 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 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.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

(Mr. PAUL 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 the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

(Mr. DUNCAN 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 Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK 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 Arkansas (Mr. BOOZMAN) is recognized for 5 minutes.

(Mr. BOOZMAN 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 Texas (Mr. ORTIZ) is recognized for 5 minutes.

(Mr. ORTIZ 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 Texas (Mr. DOGGETT) is recognized for 5 minutes.

(Mr. DOGGETT 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 Texas (Mr. REYES) is recognized for 5 minutes.

(Mr. REYES 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 Texas (Mr. GONZALEZ) is recognized for 5 minutes.

(Mr. GONZALEZ 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 Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas. addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

(Mr. GREEN of Texas 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 Texas (Mr. HINOJOSA) is recognized for 5 minutes.

(Mr. HINOJOSA 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 Texas (Mr. EDWARDS) is recognized for 5 minutes.

(Mr. EDWARDS 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 Massachusetts (Mr. FRANK) is recognized for 5 minutes.

(Mr. FRANK of Massachusetts addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

OCEAN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, the Republicans have been in the majority for basically 10 years, and we have done a number of very positive things. What I would like to speak to this august body about tonight is an issue of oceans.

In 1994, when the Republican majority took over, they began to reorganize the committee process. At that time, they wanted to make it more applicable to the Members to represent their districts, to represent their regions and to be more efficiently organized, to spend the taxpayers dollars wisely.

What we did, however, was to consider that we will continue to reorganize the process as the years went by to ensure that Members had an opportunity to serve on the committee that not only represented their districts, but that also represented their desire to be a visionary Member of this Congress.

□ 1945

One of the committees that was eliminated was the Merchant Marine and Fisheries Committee that dealt with oceans issues, fisheries issues, the Great Lakes and things of that nature.

The reason that one single standing committee was important was because there are billions and billions and billions of dollars that are generated in the U.S. economy as a result of the world's, and especially the jurisdiction of the oceans, that fall in the United States, of the oceans, whether that is trade, whether that is commercial fisheries, recreational fisheries, marine habitat, the weather, the climate, the rain that sustains the country. All of these issues are dealt with because of ocean and Great Lakes issues.

The committee, however, was reduced to a subcommittee and put under the jurisdiction of the Interior Committee which was renamed the Committee on Resources.

There is still a great deal of effort to put forth a good ocean policy by the Federal Government. However, since the full committee was reduced to a subcommittee, much of the jurisdiction was taken away. On the House side, there are 19 full and subcommittees that deal with a myriad of ocean issues; and, as a result of that, even though committees work well together in their area of jurisdiction, the issues dealing with oceans are relegated to a very small piece of any one single committee, even the Committee on Resources, where that full standing committee became a subcommittee.

Because the issues are so fragmented, there is no one particular center of gravity to develop policy, in my judgment, for the U.S. ocean policy.

What I am suggesting that we do in the next Congress is that we create a standing committee that has full jurisdiction over the oceans, that takes that $120 billion annual economy that is generated by oceans, that deals with the commercial fishing activity from Alaska to Hawaii, to the Pacific, to the Gulf of Mexico, to the Atlantic Ocean, an area whose jurisdiction is larger than the 50 States combined. We take all of those issues and we combine it into one full committee, and that one full committee will have jurisdiction over the issues that are dealt with as far as the oceans are concerned.

Let us just take commercial fishing activity, for example. Everybody has gone into a store and purchased fish. Everybody has gone into a restaurant and ordered fish. That generates billions upon billions of economic activity. But 75 percent of the commercial fish caught in U.S. waters spawn in tidal estuaries, and one of the problems with tidal estuaries is they are being polluted. They are being fragmented. They are being dammed. They are being degraded in a whole host of ways. And there is not really one single entity in the Federal Government that can work with the State government, the private sector and various groups to take a look at the loss, which is as much as 20,000 acres on an annual basis.

So just on the perspective of an economic agenda I feel confident that an oceans committee, which would be the center for the perspective on developing coordinated U.S. policy on oceans issues, is vital in the next Congress.

So, Mr. Speaker, I would urge my colleagues, when this comes up for an issue, to vote favorably in this direction.

ASKING ADMINISTRATION TO URGE A U.S. VOTE AGAINST AZERBAIJAN'S U.N. RESOLUTION

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to bring to our attention Azerbaijan's recent introduction of an ill-advised United Nations General Assembly resolution regarding what Azerbaijan erroneously refers to as ''the situation in the occupied territories of Azerbaijan.''

This intentionally disruptive resolution directly and significantly threatens efforts towards a peaceful settlement over the Nagorno-Karabagh conflict. Furthermore, it jeopardizes the principles and procedures of the Organization for Security and Cooperation in Europe and specifically the Minsk Group mediation effort, co-chaired by the United States, France and Russia, to resolve the Karabagh conflict.

Azerbaijan's proposal represents a hostile declaration against the entire peace process, aimed only at fostering increased divisiveness. Its consideration can only set back the cause of peace.

Mr. Speaker, it is disturbing to note that this resolution was recently approved to be included on the U.N. General Assembly's agenda. Even more alarming is the fact that the United States has thus far failed to compellingly address the resolution, choosing to instead abstain from every vote in which they had an opportunity to halt the advancement of this destructive measure. This failure by the administration now has the potential to undermine U.S. interests and American values in the strategically important Caucasus region.

Mr. Speaker, the vital role the United States plays as an honest broker in the Nagorno-Karabagh peace process is gravely threatened by the administration's continued lack of decisive action. Given our commitment to keeping the parties talking and moving forward, it is necessary for the U.S. to act forcefully against destabilizing steps that will unravel the peace process. Our interests are best served by the continuation of dialogue on the outstanding issues related to Nagorno-Karabagh within the OSCE framework and not by the fragmentation of this orderly process.

Since the beginning of the Nagorno-Karabagh conflict, Armenia has been committed to finding a peaceful solution. Moreover, I cannot stress enough the crucial role that the U.S. plays in the negotiations over Nagorno-Karabagh to help the people of this region find a lasting and equitable peace. These actions by Azerbaijan subvert these efforts and seriously complicate our diplomacy in the Caucasus region. A failure on our part to forcefully and

publicly confront the Azerbaijani government over these destabilizing maneuvers would send extremely dangerous signals to Azerbaijan.

Mr. Speaker, the U.S. must take action to condemn Azerbaijan's desperate acts of destructive venue shopping, and we here in this Chamber must do everything that we can to ensure that all parties involved in this conflict make a genuine commitment towards peace and stability. Action on the part of the U.S. must go further than the OSCE joint statement that was released in which the members of the Minsk Group expressed their concern and opposition towards the Azeri resolution. Beyond merely releasing a statement, the U.S. must demonstrate its views by taking a stance and voting against this measure.

I urge the U.S. to forcefully renounce this proposal, secure its retraction and impress upon the Azerbaijani government that it should drop such counterproductive tactics in favor of serious and lasting commitment to the OSCE Minsk Group process.

The OSCE Minsk Group process cannot survive Azerbaijan's destabilizing tactics. Continued tampering with this process will inevitably produce a chain reaction resulting in its demise. We cannot afford to allow Azerbaijan to continue to disrupt the work of the OSCE, which, as my colleagues know, has been recognized by the U.N. itself as the lead arbiter in this conflict.

Finally, it is time for the U.S. to be more forceful with Azerbaijan and to make clear that their tactics are not helpful to a peaceful and just resolution of the Nagorno-Karabagh conflict. Once again, it is imperative, Mr. Speaker, for the U.S. to vote against this U.N. resolution, thereby clearly demonstrating that there are serious consequences to actions that disturb the regional Caucasus peace, security and prosperity.

THANKING MARY HOWARD FOR A LIFETIME OF PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. WILSON) is recognized for 5 minutes.

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to thank one of South Carolina's finest ladies, Mary Talbert Howard, for her lifetime of public service.

Mary will conclude her full-time service to the people of South Carolina when she retires at the end of this year. Active in the Lexington, South Carolina, community since 1973, Mary served with my predecessor and mentor, the late Congressman Floyd D. Spence. In 2001, she graciously agreed to stay on as the District Director for the Second Congressional District of South Carolina.

A native of Hartsville in Darlington County, South Carolina, Mary attended the Hartsville schools, Limestone College and graduated from the University of South Carolina with a BA in education. She began her employment with the late Congressman Floyd Spence in 1981, after successfully serving as Spence for Congress campaign office manager, and she became District Director in 1992. Her responsibilities included representing the Congressman at all events throughout the Second Congressional District, handling of all constituent concerns, meeting with the local and State government officials and attending all local and State civic group meetings.

Mary has been active in the Lexington Women's Club since 1973 and served in many of the officer positions, including president. She also served as district and State legislative chairman for the State Federation of Women's Clubs.

Mary has also served as president of the Riverbanks Zoo Society, as an active member of the Lexington Medical Center Board, as Corresponding Secretary of Friends of the Lexington County Museum, and as a board member of the Lexington Arts Association.

She has been a delegate to the State and county Republican convention since 1980.

Mary is a member of St. Peter's Lutheran Church, where she served on the Worship and Music Committee and is a former Sunday schoolteacher.

Mary is married to Jerry Howard, and they have three children: G.G. Howard Culpepper, Melissa Howard Henshaw and Amy Talbert Howard. She also has two grandchildren, Cate and Jerrod.

In all the years that I have worked with Mary, she has always served with grace and dignity, and I have been extremely honored to have her represent me these last 3 years. She will always be a close, personal friend of the Wilson family, and Roxanne and I wish her and her husband Jerry all the best in their future.

I ask all of my colleagues to join me in thanking Mary Howard for her commitment to serving her community with excellence.

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

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

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

There was no objection.

HONORING CONGRESSMAN AMO HOUGHTON AND CONGRESSMAN JACK QUINN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WALSH) is recognized for 5 minutes.

Mr. WALSH. Mr. Speaker, in the rush of events at the end of this session, the New York delegation has attempted to set aside some time to recognize the distinguished careers of two of our colleagues who are retiring at the end of this session. What I intend to do is make a brief statement and then reach out to my colleagues, both sides of the aisle, to give them the opportunity to provide remarks to acknowledge the great service of these two men.

First, our colleague from Corning, New York, AMO HOUGHTON. AMORY HOUGHTON came to the Congress in 1986, was appointed to the Committee on Ways and Means, has served as a subcommittee chairman and has done great work not only on tax policy and health care policy but, also, he has been a dedicated global citizen. He has been involved in Africa and in other troubled places around the world where his gentle, thoughtful approach to problem solving has been respected and has brought great credit to not only to him but to our country.

He has been a great adviser, counselor to me; and his service to our State has been no less than remarkable. We will miss him very, very much. He will leave a tremendous void in our delegation, and we wish him all good health, and a long and enjoyable retirement with his beloved wife Priscilla.

Our other colleague who is completing his career at the end of this session is my good friend JACK QUINN, who represented Buffalo, New York. His home is in Hamburg, New York, where he served as supervisor. He came to the Congress in, I believe, 1992, was appointed to the Committee on Transportation, served as the subcommittee chairman on railroads for an extended period of time and set very important policy regarding our rail lines around the country.

□ 2000

JACK, as all of us know, has a very personable, delightful personality. He is a hard-working, dedicated family man who always brought joy and laughter wherever he traveled. He is a close personal friend, someone that we all respect, and someone we will all dearly miss as he proceeds into his next iteration, whatever that may be. We all know he will be successful at whatever he does, and we wish him all the best.

To both my colleagues, the gentleman from New York (Mr. HOUGHTON) and the gentleman from New York (Mr. QUINN), we bid them adieu. We know you are not going far away. We hope to see you on a regular basis.

Mr. RANGEL. Mr. Speaker, the House of Representatives is losing an extraordinary man in Congressman AMO HOUGHTON. He has been my colleague in the House, in the New York Delegation and the Committee on Ways & Means. I have been privileged in every way to be his colleague, as there is no one who more exemplifies public service.

AMO HOUGHTON is of a distinguished and affluent family, yet he is interested in neither

wealth nor leisure, forging a career dedicated to serving his fellow man. Throughout his significant career, Mr. HOUGHTON represented one of the more economically depressed districts in New York State, a fact that never deterred him from trying to improve the economy of the New York Southern Tier. He was a successful businessman before becoming a politician, and it has been said that he would surely have become a missionary, had he not been elected.

AMO HOUGHTON quickly became one of the most beloved Members from either side of the aisle, most likely because of his unifying nature; Mr. HOUGHTON was not one to participate in partisan sniping, always calling for understanding and compromise. Never neglecting any of New York's citizens, he pledged his complete attention and support to those in New York City, the suburbs and many smaller cities and rural communities, like those in his district.

The House will find itself at a loss without the talents and graces of this remarkable man. It will miss his civility and his wisdom, his spirit and determination, but it will be his optimism for our Republic and his respect for the beauty of human life that will be missed most of all.

Mr. Speaker, I rise to honor the career of Representative JACK QUINN, one of the most optimistic Members I have met. I have had the pleasure of serving with JACK since 1993; he is a man who signified the old values of the Republican Party in New York. Mr. QUINN's respect for the working class, fiscal responsibility and civil rights are lasting testaments to his impressive legacy.

It could not have been an easy task in representing the City of Buffalo, which has suffered so many devastating economic downturns over the past few decades, yet Mr. QUINN was constantly re-elected in a district overwhelmingly comprised of registered Democrats. This fact is a tribute to his keen understanding of the needs of his constituents even where they may contradict with the leadership in the House of Representatives.

JACK QUINN is one of those Members for whom no one has a bad word and with whom no one has had a bad experience. He has the range to be comfortable with factory workers to business leaders to Democrats and Republicans alike. His independent nature and policies are deserving of the highest mark of honor; a man of JACK QUINN's poise and positive energy will be sorely missed in the halls of Congress.

HONORING DEPARTING TEXANS

The SPEAKER pro tempore (Mr. PENCE). Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, it is with a sad heart that I rise to say goodbye to six of my colleagues from Texas who will not be returning to this body next year. All of these men have been dedicated patriots who have served the State of Texas and this country with honor and distinction.

The gentleman from Texas (Mr. FROST) has faced the challenges of serving as the dean of the Texas Democrats for years and has fought to ensure that the rules of this House are fairly enforced.

This Nation's farmers and ranchers have had no better friend or advocate than the gentleman from Texas (Mr. STENHOLM). He has been our conscience on fiscal responsibility, and I hope that we will take his remarks last night to heart as we begin the budget debate next year.

After the tragic events of 9/11, we created the Select Committee on Homeland Security. As the committee's first ranking member, the gentleman from Texas (Mr. TURNER), has fought to increase funding for critical infrastructure protection and has brought national attention to the serious manpower and infrastructure shortages along our southern border.

The Texas border region is losing my colleague and good friend, the gentleman from Texas (Mr. RODRIGUEZ), who has worked tirelessly to address the health care crisis that is facing the southern border communities. As the chairman of the Congressional Hispanic Caucus this past year, CIRO RODRIGUEZ has continued to focus national attention on issues important to the Hispanic community.

The gentleman from Texas (Mr. LAMPSON) has protected our children through his national leadership on the issue of missing and exploited children.

The gentleman from Texas (Mr. SANDLIN) has been a strong member of the Blue Dog Caucus and was instrumental in securing our airways through his work on the Aviation Security Act.

Finally, Mr. Speaker, I was proud to serve on the Committee on Financial Services with one of my newer members of the Texas delegation, the gentleman from Texas (Mr. BELL). He and I worked on legislation which focused on the financial literacy of all people. I appreciate his strong support of my efforts to improve math and science education in this country.

Mr. Speaker, all of these Members from Texas have given invaluable service to this Nation, and the 109th Congress will be poorer for their absence. I wish them all the best.

MEDICAL MALPRACTICE INSURANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, we just finished our elections, and we hear a lot of browbeating and weeping and gnashing of teeth from the other side of the aisle concerning what went wrong. Goodness gracious, what in the world went wrong? We thought we ran a good campaign. We were ready to elect a President, we were ready to take over the House, we were ready to get the majority in the House and the Senate, and none of those things happened.

Of course the pundits are on television every day, 24 hours a day it seems, talking about exactly what went wrong. And there is a lot of talk, of course, about the issue of moral values, traditional family values, and Christianity. I am sure that that had something to do with it. But I will stand here today, Mr. Speaker, and say to my colleagues that I ran a race in which I won with 57.4 percent against an opponent on the other side of the aisle who I think was a very strong Christian man, a good man, and one who had great values. But he was running on a party platform that did not embrace those traditional values that mean so much to I think middle America and those of us where I come from in Georgia.

But I think it goes beyond that. I think it goes far beyond that. And I would suggest to my friends on the other side of the aisle, as they try to play Monday morning quarterback and figure out what went wrong, to think about issues like medical liability reform and the fact that the Nation, 75 percent or more, the American people in every poll that has ever been done, are very much in favor of medical liability reform. And yet an issue like that, which really should not be a partisan issue, because there is absolutely no reason why access to health care and fixing a broken system should come down along party lines, certainly did become partisan. It did in this body, and it did in the other body.

In March of 2003, the HEALTH Act was passed in this House Chamber, as my colleagues know, and there were Members of the Democratic minority who voted for the bill, but only a few, only a handful, and practically none in the other body. So today, as we stand here going into the 109th Congress and President Bush's second term, we once again have a chance, an even better chance, I think, to get medical liability reform passed because we have increased our margins in the other body.

So there are a lot of reasons you can look back and try to figure out why you lost, but that is one, I think, that my Democrat colleagues need to take a close look at. When this issue comes before us in the 109th, if you want to do something positive, if you want to respond to the will of the American people, this is certainly a great first step. I would encourage my friends on the other side of the aisle and my fellow Republicans in the House and the Members in the other body that it is time. The American people want this. They need it.

Access to health care is hugely important. We are seeing more and more physicians, and I will get to some specific numbers a little later regarding doctors in high-risk specialties, like neurosurgery, emergency room physicians, and OB–GYN, which is my specialty. I think all my colleagues know that in my prior life I practiced medicine for almost 30 years, and as a pro-life OB–GYN physician, delivering those 5,200 babies. Many of my colleagues in that specialty are dropping

out at the very peak of their practice productivity, in their late 40s, early 50s. They are literally trading their stethoscopes for a fishing rod or a set of golf clubs. They do not want to do that, but they have been forced to.

I have a number of posters here, Mr. Speaker, that I want my colleagues to pay attention to, which really give testimonials to the statistics. Maybe my colleagues know some of these individuals, or individuals just like them, or families who have suffered because, when they went to the emergency room, there was no emergency-room physician to take care of their injured child or their loved one who had had a stroke and needed immediate care from a neurosurgeon.

Just look at some of these posters. This is talking about women's health care in particular. Women's Health in Jeopardy: A pregnant Texas woman was forced to drive 80 miles to a San Antonio hospital because her family doctor in her rural hometown had stopped delivering babies because of malpractice insurance concern. This was in the Fort Worth Star Telegram January of 2003.

Nationwide, doctors are leaving and patients are suffering. Look at these people. Look at these physicians. I do not know if my colleagues can see some of these posters, but they are not saying ''Vote for George W. Bush, or Reelect Bush, or Vote For Kerry and Edwards, or I am a Democrat, I am a Republican.'' They are saying ''tort reform now.''

Insurance rates are driving doctors out of business. What good is insurance, health insurance, if you cannot find a doctor to provide the care, and on and on and on? Look at some of these headlines, Mr. Speaker: ''Doctors Protesting Skyrocketing Malpractice Premiums.'' Springfield State Journal Register, February 2003. ''Malpractice Insurance Prices Send Physicians to the Streets.'' USA Today, February 2003. ''Caps on Noneconomic Damages Most Common Solution Considered by States in Crisis.''

There are twelve States in crisis, and 30 more near crisis. If my colleagues do a little quick math, that is 42 out of 50 that are either in crisis or near crisis today. USA article, February 2003. ''Medical Malpractice Premiums Jump 50 Percent, Average Cost Tops $1.4 Million Per Hospital.'' PR news wire, January of 2003.

It is not just the physicians; it is the hospitals that are suffering as well, many of whom are self-insured up to probably $10 million, $15 million, or $20 million; and it is literally driving the small rural hospitals out of business. And in so many instances, the hospitals and the school system might be the only two employers in a whole county, or the two major employers in a whole county. When you shut them down, you are talking about job loss.

So this is really an economic issue. It is a health issue, no question about that. Lack of access to health care is a real tragedy and a real crisis, but we have heard for the last 2 years, as we led up to this Presidential election year, the other side of the aisle talking about President Bush being the only President since Harry S Truman who actually lost jobs on his 4-year watch. Three million of those happened to occur after the dot-com bubble burst and the recession that started during the Clinton administration. The rest of it occurred shortly after 9/11, which cost the economy of this country almost $3 trillion.

The other side kind of changed their tactic, Mr. Speaker, as we began to grow jobs as those tax cuts for all Americans with their special emphasis on small businessmen and -women began to put people back to work. All of a sudden, when we gained 1.7, 1.9 million jobs back, then they had to change their tactics at the last minute.

But make no mistake about it, this medical malpractice crisis and lack of access to care, and the fact that physicians are shutting their offices, it is a job issue as well because it is not simply one physician but in many cases it is 15 to 25 people who are actually employed in that office and all of them are without a job. Talk about outsourcing of jobs.

We could have done a lot to prevent that right here in our own country with some meaningful leveling of the playing field with fair and balanced tort reform in regard to medical liability.

Continuing with some of the posters, these are real-life situations that I want to bring to the attention of my colleagues.

□ 2015

Michelle, a breast surgeon, serving more than 5,000 patients a year, experienced a 760 percent increase in malpractice insurance over an 8-year period of time. That is an average 76 percent increase per year. This was a testimonial on 60 Minutes in March, 2003.

Doctors in rural Mississippi can expect to pay over $70,000 in malpractice premiums. Their average salary in rural Mississippi, certainly not an affluent State, about $72,000 a year. They are literally almost as much, not more, but almost as much in malpractice premiums as they are making in income and probably working 70 hours a week.

Lehigh Valley, Pennsylvania, lost one-third of its neurosurgeons due to unrelenting problems with medical malpractice insurance. That is in Lehigh Valley, Pennsylvania.

Listen to some of these numbers. Talk about bullet points. This really cuts right to the chase. Let me give my colleagues a few numbers to ponder.

America's medical liability crisis, we all pay for a broken system. The number 19, as I said at the outset of the hour, the number of States in a full-blown medical liability crisis in which the cost of frivolous lawsuit settlements and jury awards cost physicians' medical liability premiums to skyrocket. As a result, patients lose access to care when physicians are forced to give up parts of their practice, such as delivering babies or performing high-risk surgery.

Mr. Speaker, 72 percent of Americans favor a law that guarantees full payment of lost wages and medical expenses but limits noneconomic damages. That is the point that my colleagues on the other side of the aisle seem to miss. We spend all this money on polling. We poll and run TV ads, and then we send out mailers depending on what the public perception is of an issue. And 72 percent, talk about a plurality, a supermajority of Americans understood this issue, and clearly today understand that we are a country in crisis in regard to our health care delivery system. They want change, they want fairness, and yet my colleagues who have a lot of heartburn over this recent election are still trying to figure out what went wrong. Certainly they were wrong on that issue.

The figure of $70 billion to $126 billion a year, the cost of defensive medicine which could be significantly reduced by medical liability reforms. Now we just passed yesterday an increase in the debt ceiling of $800 billion. There was a lot of rhetoric from the other side and a lot of complaining about the runaway deficits and the growing, burgeoning debt.

With medical liability reform, it is estimated that we would save the government close to $40 billion a year. Keep in mind that the Federal Government really pays about two-thirds of all of the health care in this country with four programs: Medicare, Medicaid, Tricare for our military personnel and their dependents, and our VA health care system. If we put all of those programs together, we are talking about two-thirds of the health care costs in this country the Federal Government pays. If we had some meaningful tort reform and doctors did not have to do all this defensive medicine and add all of these additional tests which we know and the hospitals know are totally unnecessary in many instances, but doctors are just trying to protect themselves from a lawsuit, if we could get all of that out of the system and go back to just practicing common-sense medicine, this is the amount of savings we would incur. Then we would not have to increase that debt limit.

I am very pleased tonight, Mr. Speaker, to be joined by one of my colleagues on my side of the aisle and a fellow physician, not only a fellow physician but also a fellow OB/GYN physician. He has not practiced quite as long as I have nor delivered quite as many babies as I have, but he is one fine doctor and a fine Congressman.

Mr. Speaker, I yield to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Georgia (Dr. PHIL GINGREY) or Dr. PHIL, as we say here in Congress. I need to point out that I am

just a simple country doctor, and while the gentleman from Georgia will spend a lot of money on polling, my operation in Texas is far too small for that. But I do talk to a lot of my constituents, and the doctor is right that this is an issue understood by average, everyday Americans. They understand it very well. They understand it is limiting their access to medical care, and they want this situation fixed.

The Subcommittee on Health Policy met this summer and had a hearing on medical liability reform. We wanted to bring the spotlight to what are some of the successes we can point to in this country in this arena, not just simply rehash and recover old territory but what are some of the solutions. We were fortunate to be joined by a doctor from California who was actually practicing medicine in California 1975 when the California Medical Injury Compensation Reform Act of 1975 was passed.

Of course, he talked about the night-and-day difference that it made in his State as far as being able to practice medicine with the noneconomic damages capped at $250,000 and how that held down premiums and allowed doctors to continue in practice and not leave the State because they were in a crisis in 1975.

Let us remember the governor who signed this bill into law from the California legislature was none other than Jerry Brown, not known for his conservative thoughts or principles. It was truly landmark legislation when it was passed in California now some 28 or 29 years ago.

In Texas, we passed legislation this past legislative session that also limited noneconomic damages, put a cap on noneconomic damages. It was a little bit different. We might say it was a 21st century variation of capping noneconomic damages. There is a cap of $250,000 for the physician's component, a cap of $250,000 for the hospital component, and another $250,000 if a nursing home is involved. But altogether, the noneconomic damages in a case would be capped at $750,000. This has had an enormously positive impact on the State of Texas as far as liability reform is concerned.

Consider this: When I was practicing medicine in the late 1990s, there were 17 insurers who would write a liability policy for doctors in the State of Texas. As the medical liability crisis mounted in my State, the number of insurers dropped out and left the State to the point that, by 2002, there were two remaining insurers writing medical policies in Texas.

What did this mean for the average medical practitioner and their patients? When I was campaigning in 2002, when I would do speaking events, I remember a young woman came up to me. She was probably in her early 40s. She said, ''I am a radiologist who studied at State schools and I did my residency at a State-supported institution. My insurance carrier left the State 3 months ago, and now I cannot buy liability coverage at any price, and I cannot afford to jeopardize my future, my husband's future, and my children's future by continuing to practice medicine without a liability policy, so I am a stay-at-home mom.''

That is an admirable thing for someone to do, but the State of Texas had made a significant investment in her college and medical education. In addition, she did her residency at a publicly funded hospital. Again, a good investment made in this bright individual to practice her craft of radiology, a lot of investment was made by the State of Texas, by the people of Texas, in her medical career, and she was unable to practice her profession because of the unavailability of liability insurance at any cost, let alone liability insurance that might have been quite costly.

One of the people we heard from at that hearing was Texas Insurance Commissioner Jose Montemayor. This hearing was in June. Commissioner Montemayor talked about some of the improvements that had come to Texas as a result of this law that was passed by the Texas State legislature. We had gone down to two liability insurers. We were now up to 13. Of those that had come back into the State in 8 months time, they had done so without an increase in their rates, contrasting with the neighboring States of Oklahoma and Louisiana where those insurers were able to show and justify an increased rate of 50 percent in Oklahoma and 80 percent in Louisiana. So this is a big difference this law has made in Texas.

In addition, Cristus, a Catholic not-for-profit health care system in south Texas that self-insures, has been able to, by June of this year, 6 months into this fiscal year, had posted a $20 million savings in their insurance premiums that they were then able to directly invest in hiring nurses, direct patient care, and capital improvements in their hospitals there.

So this is a tremendous gift or tremendous savings for the people in the State of Texas, and one of the things that we were able to showcase in that hearing is one of the proven successes in the country for medical liability reform.

We also heard from an individual, and I apologize. I am blocking on his name. He was the administrator of the hospital in Uniontown, Pennsylvania, and there the story has not been as benevolent. Pennsylvania has not managed to pass medical liability reform in their last legislature. Because of the peculiarities of their State system, they will have to pass that legislation two times in the form of a constitutional amendment. So 2007 or 2008 is the soonest time they can expect any type of relief from their medical liability crisis.

The administrator at Uniontown Hospital told us he is down to one ear, nose and throat doctor who is now responsible for about 140,000 patients in that area. I did some quick math, that is about 300,000 ears for one doctor. That is a lot of work for one ENT doctor, and they cannot bring in another doctor to help him because of the cost of their liability insurance.

About a year and a half ago, we were at a field hearing up at ANWR, and we came back home through Nome, Alaska. When a group of congressmen come through Nome, Alaska, it is a big deal, and a lot of people turn out for that. They heard that one of the congressional representatives was a physician representative, and the entire medical staff of their hospital came out to lunch with us.

Over lunch, they asked questions. What it was like to serve? And one said we hope Congress gets that medical liability law passed because we cannot afford an anesthesiologist for our hospital here in Nome.

I asked what kind of medicine he practiced. He said I am an OB/GYN, just like you.

Mr. Speaker, what a deal. Practicing OB/GYN in your hospital without an anesthesiologist in Nome, forget pain relief during childbirth. We are talking what do you do if you have to do a c-section. He said, well, we get that patient on an air ambulance as soon as possible and get her to Anchorage for her c-section. Well, Anchorage is an hour and a half a way, and I am given to understand there is poor weather sometimes in Nome, Alaska.

I cannot understand how we feel that we are furthering the cause of patient safety by allowing this system to continue.

People do ask me back in Texas, they say, we have done a good job here in Texas. Why are you worried about medical liability insurance anymore? It is not an issue for us here in Texas. But as Dr. GINGREY has pointed out so clearly, it costs our country billions of dollars every year.

□ 2030

In the Medicare system alone, the cost of defensive medicine from a 1996 Stanford University study was estimated to be between 30 and $50 billion a year in the cost of defensive medicine. Do the math on that. What is the average of 30 to $50 billion? It is $40 billion a year. Dr. GINGREY is quite right. We were criticized last night about increasing the debt limit. We were criticized a year ago for passing a Medicare bill that costs $40 billion a year for prescription drug coverage. We basically would save that amount of money if we would only pass meaningful medical liability reform. That is why it is a national issue, because we are all paying for that. Every taxpayer in the country is paying that freight for this medical liability system. $230 billion a year in direct costs for medical liability and about 20 percent of that actually goes to injured patients.

Do not tell me that by capping noneconomic damages that we are keeping money out of the hands of patients.

The system is keeping money out of the hands of patients today under the present system and the only parties that are enriched by today's system are the trial lawyers.

With that, I see my time is about up. I appreciate so much the doctor organizing this Special Order this evening. It is of critical importance that we get this done. We did not manage to do it this year. There has been a little bit of a change across the Capitol rotunda, and I am very optimistic that as we start into the 109th Congress, this will continue to be an issue of pressing concern for it, and we will get this job done for the American people.

Mr. GINGREY. I thank my colleague from Texas for joining us this evening for this discussion, and I appreciate his very accurate remarks. I know one thing he was talking about, physician access and which specialties doctors choose today based on this liability crisis.

I want my colleagues to listen very carefully to this number: 48 percent, the proportion of American medical students in their third or fourth year of medical school who indicated that the liability crisis was a factor in their choice of specialty, threatening patients' future access to critical services. I am sure that Dr. BURGESS would agree with me that when we were in medical school a few years ago, OB–GYN was one of the most popular specialties. It was the one that everybody wanted to go in. It was the compassionate, the feel-good specialty, delivering babies, being with a family, at what usually is the happiest day, the happiest moment of their lives, the birth of a child.

Yet today because of this crisis, as he well knows, we are having fewer and fewer, not only fewer and fewer of our best and brightest students from college wanting to get into medical school and go into the practice of medicine in any specialty but particularly OB–GYN and general surgery and neurosurgery and some of these higher risk specialties.

Mr. BURGESS. If the gentleman will yield, about a year ago I was having a discussion with a woman who was in charge of the residency program at a northeast hospital. I trained at Parkland Hospital, arguably the best residency program in the country, but this one in the northeast has a good reputation as well, and she said that they were at the point now where they were taking people into their OB–GYN residency program that 5 years ago they would not even have asked in for an interview, such has been the dropoff in the quality and caliber of, as you put it, the best and the brightest not going into the specialty. These are children's doctors. These are the doctors that are going to be there for the next generation of Americans. Again, I fail to see how allowing this system to continue is furthering the cause of patient safety or excellent patient care.

Mr. GINGREY. The gentleman is absolutely right. I am pleased to have another physician Member with us tonight in my colleague from Florida, Dr. DAVID WELDON. Dr. WELDON is an internal medicine specialist. I think I am recalling correctly that he is about to begin his sixth term in this august body and has certainly been a great mentor to both Dr. BURGESS and myself as we came in 2 years ago as freshmen and really needed to get up to speed on the Medicare law and all the nuances of that. It is certainly a distinct honor and a pleasure to have Dr. WELDON join us this evening.

Mr. WELDON of Florida. I thank Dr. GINGREY for his kind words. I must confess that he did not need a lot of mentoring. All his years in the State senate prepared him quite well for the busy work that we are about here. I just want to amplify a little bit on what our good friend, Dr. BURGESS, the gentleman from Texas, was talking about, specifically the high cost of defensive medicine. As you mentioned, I was a full-time practicing internal medicine doctor. Actually, I still see patients about once a month in the veterans clinic on a voluntary basis in my district.

As an internist, internal medicine specialist, I did a lot of diagnostic tests. A lot of people come in the office saying I hurt here, I hurt there, I can't breathe when I walk. You do a physical examination, and you typically send people off for studies and tests. I regularly on a daily basis practiced defensive medicine. I would do my history and physical, and I would come to a conclusion as to what I thought that patient most likely had and then there was always that little voice in the back of my mind, what if you are wrong? What if you miss something? What if you get sued? What will happen to you if you get sued? Will it hurt your practice? Will you lose patients? Will you lose your house? These are the kinds of things that go through your mind.

What you do is you order extra tests. We had a special name for doing that. But I was one doctor in one town, and there are hundreds of thousands of doctors every day in America spending hundreds and thousands of dollars each. I was so glad Dr. BURGESS mentioned that study out of Stanford University. That was the first study that conclusively showed that defensive medicine was real and it was very, very costly and that was that famous, a famous study now, that came out of Stanford University. They looked at expenses before medical malpractice and after medical malpractice for just two diagnostic codes, two different conditions, and showed a significant reduction in Medicare charges, and what is most important in this, no increase in what we call morbidity and mortality. In other words, the patients did fine, but the charges went down. They said at the end of that article, this is the first really good scientific study that shows that defensive medicine is real.

And how much does it cost? Ladies and gentlemen, we are struggling in this body to figure out how are we going to keep Social Security solvent in the future and how are we going to keep Medicare solvent in the years ahead.

Actually, Social Security gets talked about much more in the press, but the real problem is Medicare. Social Security will be solvent for a long time to come. Medicare could start going broke before the end of this decade. The crisis in Medicare is much more serious. What did that study show? It showed that defensive medicine costs us tens of billions, maybe as much as $50 billion, $75 billion a year just in the Medicare plan.

How much money could we save over the next 5, 10 years if we on a national level can institute some kind of caps on all of this medical malpractice? Let me just say as well, the problem that we have in the State of Florida is very severe. I know there are many other States that are very severely affected, but I just want to share some statistics here. In 1975, in the State of Florida, there were 380 lawsuits for medical negligence allegations. Those 380 lawsuits resulted in $10.8 million of settlements. It cost $1.5 million for the insurers to defend. In the year 2000, the next year that we have good statistics on this, it went up to 880 lawsuits resulting in awards totaling $219 million.

So we have a serious problem. This is not just a Florida problem. This is not just a Georgia problem. It is not just a Texas problem. This is a national problem. This body, the Congress of the United States, we are the fiduciaries of the Medicare plan, and we can save the Medicare plan by putting some reasonable caps on medical malpractice settlements. Every year that I have been here, and I have been here 10 years, going into my sixth term, we have passed some form of medical malpractice reform. Typically, we have passed this $250,000 cap on what we call pain and suffering claims, or noneconomic damages. The important thing there is that if people cannot work, they can be compensated for that. If they have medical bills, they can be compensated for that. And if they have pain and suffering, they can get $250,000. But gone are the days of these multimillion-dollar settlements for pain and suffering. And why do we have to do that? Because we all pay for it.

I just want to share one other thing that is critically important. Most of the job creation in my congressional district over the last 10 years has been in the small business sector. When I meet small business men and women in my congressional district and I ask them, what are the problems that you are struggling with now, what can I help you with, invariably the first words that come out of their mouths is the high cost of health insurance for their employees and that many of them cannot afford to insure their employees anymore.

What can we do to help them? Actually, one of the best things we can do is

pass medical malpractice reform. I spoke earlier, Dr. BURGESS spoke earlier, Dr. GINGREY spoke earlier about the high cost of defensive medicine. That drives up health insurance premiums. If you are a small business and you employ 10 people and it is costing you $600 a month per employee to insure all those employees, you can lower that premium if we can get reasonable and sensible caps on medical malpractice.

What is going to happen there? It is going to make those businesses more competitive. It is going to make those businesses better able to hire more people. The other thing is there are a lot of small businesses that just have decided they cannot afford health insurance anymore. These are the people that I am most worried about, the working uninsured. These are people who end up using our emergency rooms for their health care services. How can we get some of these uninsured people insured? One of the things we can do is pass medical malpractice reform.

This is not just a doctor issue. As a matter of fact, the doctors complain about it all the time, but they just pass the costs on to their patients. This is really a competitiveness issue for our Nation. This is about how do we deal with the uninsured. This is about how do we keep Medicare solvent. And it is a national crisis. I want to thank Dr. GINGREY for taking the lead on this issue. It is a critically important issue. If we can finally get something done in the next Congress, it will be good for the uninsured, it will be good for America, it will be good for OB–GYNs, one of the most aggressively assaulted specialties in the Nation, constantly being sued, many OB–GYNs getting out of the business of delivering babies.

In many regions in the country, communities, they do not even have a doctor that delivers babies. They have to get in ambulances and drive or fly in helicopters to a town where there is a doctor who is willing to deliver babies. That is a sad state of affairs. It has been precipitated by the failure of the other body to really take this issue up and deal with it. We have passed it every year that I have been here. We need to do something about it in the 109th Congress. I thank the gentleman so much for his leadership on this. I really appreciate it.

Mr. GINGREY. I thank the gentleman from Florida so much. We appreciate him being with us tonight and sharing those thoughts. It is so important that he pointed out to our colleagues that this really is not just about doctors and their practice, Dr. WELDON's practice, Dr. BURGESS, Dr. GINGREY, or an individual like this Dr. Leon Smith, Jr.

I happen to know Dr. Leon Smith, Jr. He practices medicine in Athens, Georgia. I went to medical school with him. I knew him very well. Both he and his brother are OB–GYN physicians. His group, I think six or eight of them, recently stopped practicing, had to stop obstetrics and curtail their practice drastically because of this crisis. Dr. Smith was actually interviewed on ''60 Minutes'' on March 9, 2003. Here is what Leon said, Dr. Leon Smith, Jr.:

''We're giving up something I have always wanted to do because of the malpractice crisis after insurance premiums broke a million dollars.''

This is real life. This really puts a face on this problem. But as Dr. WELDON points out so vividly, it is a jobs issue because it is not just Dr. Smith and colleagues like him that have to give up their practices. It is the fact that small business men and women over the last 5, 6, 8 years are seeing double-digit increases in the amount that they have to pay for health insurance to provide to their employees. And they cannot do it. It is becoming the highest cost of them doing business. And a lot of small businesses fail. This is one of the main reasons that they fail.

And so we are not just talking about doctors not being available to help patients. We are also talking about small businesses closing and people being out of work. I think it is so important that we keep that in mind as we try to address this crisis and try to do it in a bipartisan fashion.

□ 2045

Mr. Speaker, I want to show this last poster before I go on with some additional remarks, but this is pretty telling and the title of this poster is ''Show Me the Money.'' ''Show Me the Money.'' And I have heard, I am not sure who it was, maybe some wise, erudite talk show host recently say, If you want to know what the problem is, just follow the dollar. Follow the dollar.

I can remember during the Medicare Modernization, Improvement, and Prescription Drug Act debate that we had on the floor of this House last year, this Medicare modernization, which we had not done in 38 years, and this prescription drug benefit, which seniors have been begging for, pleading for, been promised by previous Presidents and previous Congresses and nobody ever delivered, we finally delivered on that promise.

And the criticism we received from the other side of the aisle was well, it was just a giveaway from the pharmaceutical industry. That is all it is. All these Republicans getting all this money from the big drug companies. And in fact, it was said, Mr. Speaker, by so many of my colleagues on the other side of the aisle that the pharmaceutical industry wrote the bill. I guess they think the doctors and hospitals wrote the original Medicare bill that was passed in 1965, but I do not think the doctors and the hospitals have done too well, but it has been a boon to seniors. Medicare has worked well. It is going to work even better. But while they were criticizing us purportedly for accepting money from pharmaceutical industry lobbyists, look at what is happening on this ''Show Me the Money'' poster.

Why do Democrats put trial lawyers before patients? That is my question. That is the question I want my colleagues to answer for me. Seventy-four percent of the campaign contributions made by lawyers and law firms during the 2002 election cycle went to Democrats. I am not sure what the number is in 2004, but I imagine it is probably a little higher than that with a couple of lawyers on the Democratic ticket, one a trial lawyer who made his living suing doctors like me and my colleagues. Seventy-four percent of the campaign contributions made by lawyers and law firms during the 2002 election cycle went to Democrats. Over $87 million to Democratic candidates during that cycle. Seventy-four percent came to over $87 million. In fact, the average contribution to a House Democrat totaled $57,281.

I like to think that we cannot be influenced by money, and I think that that statement is, in fact, true. I think most of my colleagues on the both sides of the aisle would agree with that. Men and women of honor and integrity. But these figures certainly have to be frightening, and maybe it is some of the explanation why, which has no reason to be partisan. A high-risk mom who desperately needs obstetrical care, she is not worrying about whether that white coat has an R or a D on its shoulders. She is looking for an M.D., of course, and this should not be a partisan issue. We need to get beyond that. It is too important. It is hugely important. Just as Medicare modernization, Social Security, these other issues, education, none of that should be partisan. So I hope that as we go forward in the 109th that we will all join together and finally get this job done.

I was giving some numbers a little bit earlier, and I would like to give a few more. The number 29. Mr. Speaker, 29 is the number of years that California's comprehensive medical liability reforms have protected the State of California and their patients, physicians, and taxpayers. 1975 was when MICRA, Medical Injury Reform Compensation Act, was passed; 1975, 29 years ago. Since then premiums in the United States, the rest of the 49 States, have grown by 750 percent. In California premiums have increased only 245 percent. Another very telling statistic.

Listen to this one. And I want my colleagues to listen carefully to this: $778,334, that is the amount a patient would receive for a $1 million jury award, an injured patient, a patient that deserves compensation, and we all are aware of that in many instances, $778,334, the amount a patient would receive for $1 million jury award by reforming the current contingency fee system. Now without any reform, a trial lawyer typically takes $400,000 or more of that settlement. That is not right. Mr. Speaker, that is not right.

The people who are injured, the mom, the dad, the parent, the child, in cases

that are not frivolous, somebody has practiced below the standard of care. Maybe it is one of my physician colleagues. Maybe it is a hospital. Maybe something happened in the emergency room. That patient has been injured and suffered and has significant economic losses, and they deserve fair and just compensation. But they are not getting it because of this contingency fee system which causes a lottery mentality among a lot of trial attorneys. Not all of them. Certainly not all of them. Most, in fact, I think are men and women of high integrity and provide a good service to their clients as they practice this subspecialty of personal injury.

3.9 million, and let me repeat that, Mr. Speaker, 3.9 million, the increase in the number of Americans with health insurance if Congress were to pass commonsense reform. Almost 4 million more people would be able to afford health insurance. We have been talking about that issue ever since I have been here in this Congress about the 40 million or so mostly working Americans who cannot afford to have health insurance. Either they cannot pay their part of the premium or their employer cannot provide it for them. It is estimated with meaningful leveling of the playing field, not taking away anybody's rights, that an additional 4 million people would be covered by health insurance.

I could go on and on with these numbers and statistics, but let me just talk a little bit in some of the time that we have remaining. Mr. Speaker, there are a number of provisions in the bill that we passed, the Health Act in 2003. That bill primarily puts a cap on noneconomic, so-called pain and suffering. But what it does not do is it absolutely does not limit recovery for injuries, economic losses; and in many cases those awards are in the several millions of dollars. But there is no way that one can put any estimate on pain and suffering or noneconomic losses. And that is the hallmark really of MICRA, the law that was passed in California, and it is a model that we know works. And as I said before, if this bill is passed, and I feel that we will pass it in the 109th Congress, any injured patient would be well compensated for the economic losses and any medical care that is needed as they go forward in the rest of their lives.

Another provision in this bill is something that is called joint and several liability. I want my colleagues to understand this concept: joint and several liability. That is what exists today. That means that if 10 doctors are named in a lawsuit, it does not matter who is the major culprit or the one who practiced the least close to the standard of care. One of those physicians who had very little to do with the case could end up paying the whole judgment or the whole settlement just simply because they have the deepest pockets. In this law that we passed, the Health Act of 2003, it would be proportioned depending upon their degree of responsibility, as well it should be.

Another provision is called collateral source disclosure. Collateral source disclosure simply means that a jury needs to know if an injured patient has health insurance, has disability income, because their injury has been eligible and is now receiving Social Security Disability benefits and by virtue of that is now eligible for Medicare. Under current law in most States, the jury is not permitted to know that as they calculate what a just and fair settlement or award should be. And, Mr. Speaker, that is what I would call double-dipping, and that is wrong.

Another provision of course in the bill that I talked about a little earlier was contingency lawyer fees, and I think they ought to get paid and they will get paid and they will do very well. I do not believe there is a shortage of attorneys in the State of California. I do not see any of them coming to Georgia, thank goodness. I think they are doing well out on the west coast and will continue to do well. But if we are going to have a shortage, I think most of the Members of this body, my colleagues, would agree it is probably a lot better to have a shortage of lawyers than a shortage of doctors because we need access to health care. And that is what this is all about, that and job creation and to take some relief off the men and women who are trying desperately to provide health care to their employees.

Mr. Speaker, it has been an honor, really, and a pleasure to come here tonight and talk about something that is very near and dear to me as a physician Member of this body. And in closing, my plea to my colleagues on the other side of the aisle and my fellow Republicans and those Members of the other body is to think about that statistic that I gave them a little bit earlier. Seventy-five percent of the American people want this, and they are not going to wait any longer. And if they do not get it, they are going to hold them responsible in 2006 just as they obviously did in 2004.

COMMEMORATING THE MAGNIFICENT SEVEN

The SPEAKER pro tempore (Mr. PENCE). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening for what I think is a celebratory occasion. It is a time of recognition and celebration of the service of a number of the Members of this body. And I thought it was appropriate for myself and my colleagues from Texas to stand before this body and to be able to acknowledge a time, an era, a collegiality, a time in space, a time in the history of this body.

As I listened to my colleagues who preceded me, it makes it even more important that we come to the floor today, particularly as I listened to a litany of complaints and issues that were being raised and as I recollected of the debate we had yesterday where our friends on the other side raised the debt limit to its highest in the history of this Nation, and it makes it even more important that we acknowledge not only the legacy of these colleagues who will finish their term in the 108th Congress but to note the fact that these are Democrats, proud to be Democrats, diverse and different.

□ 2100

Certainly we are proud that they are Texans and proud to be Americans, and frankly, we are equally proud of their service.

What they brought to this body, all of them with different regional backgrounds, although coming from the State of Texas and different ideological philosophies in the political wheel of fortune, if you will, they brought a sense and a desire to serve not only their constituents but the American people. They also brought a sense of reaching out and working on both sides of the aisle.

In fact, I am reminded of less than 24 hours ago when the Ranking Member of the Committee on Agriculture, the gentleman from Texas (Mr. STENHOLM), went to the floor of the House to try and strike a reasonable response to this escalating deficit, this out-of-control budget and, frankly, seemingly no end to tax cuts and, if you will, a lack of a plan to be able to serve the American people.

So we come this evening, and my colleagues have come, and I am going to call the names of those who we seek to pay tribute to tonight, and then take time to yield to my friends, my fellow colleagues of the Texas delegation, and then I will join in with them to speak about great Members of the House.

Texas itself has had a very great history. I think of some of the names like Congressman Pickle and Congressman Brooks and Congresswoman Barbara Jordan, and I think of a number of those who no are no longer living who have been great servants of this body. Sam Rayburn, I think certainly of his leadership as the Speaker of the House. Certainly I think, and he is strong in North Texas, our good friend Jim Wright and the service that he gave. So many names that have gone down in the annals of history for their service, and Texans are proud certainly of those who have been able to serve. So I will call their names, and then I will yield to my colleagues.

As I call their names, though, let me just clarify, because it is exciting to pay tribute to them, but I just do a slight clarification. Because whenever we do these things, we obviously think of someone retiring or we think maybe of someone who decided that they wanted to choose another aspect in their life. But I want my colleagues to know that these Members of the House

love this body, they love the service in this body, they love serving the American people. The reason why this is a very special Special Order is because these individuals, most of them decided to stand and fight in what we found to be a very unbalanced redrawing and redistricting of the lines that saw them, in essence, redrawn out of their seats. So this was not a race, and they lost it. This was a race that they ran and certainly would have won if the cards had not been stacked against them.

As I have said, we are celebrating their service tonight, but we want our colleagues to know that these are individuals who stood up and stood tall and through a unique set of circumstances, not of any doing of themselves, we now will lose their very great service.

We will pay tribute tonight to MARTIN FROST, CHARLIE STENHOLM, CIRO RODRIGUEZ, NICK LAMPSON, MAX SANDLIN, JIM TURNER, and CHRIS BELL.

With that, it gives me great pleasure to yield to one of our distinguished members of the Texas delegation who likewise ran a very tough, tough race and was faced with the same set of redrawn lines but is here tonight to pay tribute to our colleagues and to reflect upon the celebratory aspects of the time that we have spent together in this body. I yield to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I want to thank the gentlewoman from Houston, Texas, for hosting this tribute to seven extraordinary Texans, seven dedicated public servants. Whether Americans knew them by name, knew them personally or not, Texas will be the lesser for their loss of service, and our Nation will be the less because of their no longer being in this great body. But the good news is, Texas is a better place today and America is a better place today because of the dedicated service of these seven Texans.

Congressman MARTIN FROST of Dallas, a longtime friend of mine, a true leader of the Texas Democratic delegation, the dean of our delegation. I have never known a more dedicated public servant in my life than Congressman MARTIN FROST, a protege of Jim Wright, the Ranking Member of the Committee on Rules, a vital committee in this House. He is someone who fought for a strong national defense, for jobs and opportunity for his beloved constituents in Dallas and Fort Worth, someone who always was a voice for equal opportunity for citizens of all races in this country. We will miss MARTIN FROST.

Congressman CHARLIE STENHOLM, one of the most decent human beings I have ever known in my lifetime. Someone respected by Democrats and Republicans alike for always being one to put the interests of our State of Texas and our country above partisanship. An eloquent, passionate voice for the value and values of our family farmers and ranchers. All who respect our rural values and the importance of our agriculture producers will miss the voice of CHARLIE STENHOLM in Congress.

Congressman JIM TURNER, a colleague who is living proof that a good person can do well in life. Someone who always treated his fellow colleagues, his citizens, and neighbors with respect and decency. He committed his adult life to public service as a State representative, as a State Senator in Texas and then as a United States Congressman, rising to the terribly important position of senior Democrat on the Committee on Homeland Security, a person who, for the past 2 years, has helped lead the fight to protect all of our families from the threat of terrorism.

JIM TURNER is someone who did not just preach family values but who lived them every day of his life.

Noting that the commonality between Mr. FROST, Mr. STENHOLM, and Mr. TURNER, and something they would all be proud of, saying themselves that each one of them married above themselves. And often unheralded heroes and heroines of this public process in Congress are the spouses of our elected officials. I want to express my thanks to Kathy Frost, a general of the United States Army, and to Cindy Stenholm and to Ginny Turner for their public service. While they might not have had a voting card on the floor of this House, they have been every much a part, in every way a part of public service through this House of Representatives.

To MAX SANDLIN, who rose to the high position of Chief Democratic Deputy Whip, one of the finest legal minds I have ever known, a personal friend who always was fighting to see that the words that end our Pledge of Allegiance, ''with justice for all,'' were not just words in a rote pledge but deeply meaningful words behind that pledge, ''with justice for all.'' That was always MAX SANDLIN's cause in Congress.

To CIRO RODRIGUEZ, who rose to be chairman of the House Hispanic Caucus and a national leader on Hispanic issues, someone who I will always remember as a voice for those who could not afford to hire a $1 million lobbyist, for the working families of his district and people all across this country. Someone who is a national leader on civil rights and veterans affairs, never forgetting the sacrifice of those who wore our Nation's uniform.

To CHRIS BELL, who served Houston and our State of Texas and our Nation with great distinction and integrity. Someone who, along with these others, lost a seat as a result of not a loss of confidence of his own constituents but because of the partisan redrawing of congressional lines in an off year in the State of Texas. He accepted political defeat with graciousness in a way that helped bring people together in his beloved City of Houston and throughout our State.

And to NICK LAMPSON, our friend from Beaumont, someone who accomplished much in Congress on many issues, but someone who will always be remembered as the father of the fight to find missing children. And as a father of a 7-year-old son and an 8-year-old son, I think I speak for all parents in America when I say thank you to our colleague Nick Lampson for watching out for all of the children of America.

To each of these seven Members, they made a difference, and I can think of no greater compliment to pass on to anyone. They made a positive difference in the lives of their citizens, their constituents, and the people of this country. And to Susan, Susan Lampson, again, NICK would join his fellow colleagues in saying proudly that he married above himself. Thank you to her for her sacrifices throughout this career of public service.

Again, none of these lost because they lost the confidence of their constituents that they serve today. They lost or had to retire because of a highly unusual, unprecedented redistricting process in a year when redistricting was not supposed to be the case in Texas. But these are good people, decent people, great Americans who not only have made a difference in the past in our State and country, but I know in the years ahead will continue to make a difference for the American people.

I thank the gentlewoman from Houston for yielding me this time and for hosting this tribute to seven great Texans, seven extraordinary Americans and public servants.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman, first of all, for his compassion and his spirit, and to be able to add to the stories of these American leaders, which we will have the opportunity to read about in the years to come. And might I, before I yield to the distinguished gentleman from El Paso, Texas, just thank you for thanking the families, the wives, the children, because we all know, those of us in public life, that we just bring our families along. How they come along is a question, but they are there with us, and I thank the gentleman for bringing attention to the families of these very fine individuals.

Let me now yield to my good friend from El Paso, Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman from Houston for yielding me this time tonight because, in a sense, tonight is a special night for us, because we say goodbye to good friends and colleagues but, in my mind, great Texans who have given their full measure so that those that have no voice will have a voice in this, the People's House.

In Texas, we are a long ways from Texas here in this House, but in Texas, we like to live by the standard that we simply say ''don't mess with Texas.'' And, regrettably, Texas has been messed with in the worst way possible and, unfortunately, messed with by Texans. And while that is lamentable and regrettable, we have to understand that it is not so much the individual but the actions of that individual.

As I sit here tonight and think about the many battles, the many debates, the many struggles that we have had, and I am relatively new to service in this Congress, I am finishing out my fourth term, which is 8 years, and I look at the number of years that are represented here that in one fell swoop that experience, that institutional knowledge, all of that hard work that these great Texans have done, I like to think of them as the magnificent seven. I know their representation will be missed. I know them to be men of real character, strong character, willing to stand up and fight when even the odds are stacked heavily against them and against us, but fighting the good fight nonetheless. Willing to get into that arena and willing to give their last full measure so that those issues and those programs that are so important to Texas working families receive full and complete consideration here in the People's House.

□ 2115

So, yes, we are losing seven Texans, and Texas I think will be the lesser for it. But I also think that it is important not having been an individual that grew up in a political system; I came to politics after a long career in Federal law enforcement. In fact, most people know that being here as a Member of Congress is probably an accident for me. But I relied heavily on the advice and expertise of the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules; the gentleman from Texas (Mr. STENHOLM), the ranking member on the Committee on Agriculture. I came here with the gentleman from Texas (Mr. TURNER) who was our ranking member on the Select Committee on Homeland Security.

I became friends with the gentleman from Texas (Mr. SANDLIN) and the gentleman from Texas (Mr. LAMPSON), also we came to Congress together. The gentleman from Texas (Mr. RODRIGUEZ) followed us by a few months. And then the rookie, the gentleman from Texas (Mr. BELL), who has been phenomenal in the short period of time that he has been here.

I think that is the real legacy that we are so proud of being Texans. We are all different. We come from different backgrounds. We focus on different priorities. We bring different expertise. But in the whole scheme of things, we make this country greater. And no one stands taller tonight in my eyes than these seven Texans, the Magnificent Seven, each one with a support system. My good friend and colleague, the gentleman from Texas (Mr. EDWARDS), who himself I think walks around with a target on his back, and we are so proud of the job that he did and of the support system that he counts on.

When we mention Kathy and Cindy and Ginny and Susan and Carolina, we mention the heart and soul of why we serve. We serve so that our children and their children can have a better future. We serve so that we can hopefully set an example of what this country can be and what it should be. And while we may have differences of opinion with those on the other side of the aisle, it is never personal in my mind, and it should never be personal.

The last thing I want to say before I yield back my time so that my good friend from San Antonio can speak as well, is that nobody from Texas walks away or runs away from a good fight or a good game. There are certain things that we expect. We expect to know what the rules of that game were. We expect that those rules will not be changed once the game starts. And most of all, we expect that win or lose, we can be proud and we can be friends because we are Texans.

In this case it was not fair. The rules were changed. And I have to say that once this story is told, we are not going to be proud of how this was done. But the one thing that we will be proud of is the work, the dedication, the professionalism of these magnificent Texans that unfortunately, through no fault of their own, because of changing the rules after the game was started, will not be able to continue their work on behalf of Texans, on behalf of Americans, and on behalf of a world that today needs great role models more than anything else. And with that, I appreciate the opportunity to pay tribute to good friends, great Texans; and they will never be forgotten by this Texan.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman. I think the power of the words this evening really define our colleagues and let everybody know that it was their will and determination that caused them to persist in the battle field of politics.

In the scheme of things, when the numbers were recorded on Tuesday night and the analysts and pundits were suggesting the numbers that the Democrats lost and our numbers went down, it is important to note on the floor tonight that the orchestration of the defeat of these colleagues again was not because the voters were dissatisfied with their work and performance, because a very unique and obviously unfair tool was utilized.

So we are here tonight putting aside that loss and really commemorating the great service that has been given to this body.

We thank the gentleman from Texas (Mr. REYES) for now giving them a new name. The Magnificent Seven has now been recorded in the annals of the CONGRESSIONAL RECORD, and I think that will be quite unique.

Let me say I am proud to yield to my good friend from San Antonio, Texas. He comes from his own skill and scholarship, a former judge, but he also will not mind us saying that we all stand on the shoulders of his predecessor and our good friend. He will have a unique story to tell us about why it is so important to pay tribute to his colleagues tonight, because I know he has been told by his dad how these things work.

Mr. GONZALEZ. Mr. Speaker, I thank my good friend and colleague from Houston.

Mr. Speaker, it is with a heavy heart that all of us from the Texas delegation on the Democratic side come to address the people's House.

We did not want to make this dinner that we had tonight earlier a wake or anything that was sad; but the truth was that there was a great amount of sadness. And at the end, I think we all learned a great deal about the true strength and character of our Members that will not be joining us in swearing-in ceremonies next January 4. I will repeat their names again because I think it is appropriate that they be repeated often so that we all are reminded what public service is about. The gentleman from Texas (Mr. SANDLIN), First Congressional District; the gentleman from Texas (Mr. TURNER), Second Congressional District of Texas; the gentleman from Texas (Mr. LAMPSON), the Ninth Congressional District; the gentleman from Texas (Mr. STENHOLM), the 17th Congressional District; the gentleman from Texas (Mr. FROST), the 24th Congressional District; the gentleman from Texas (Mr. BELL), the 25th Congressional District; my good friend, the gentleman from Texas (Mr. RODRIGUEZ), the 28th Congressional District. These were true public servants.

Tomorrow they will be casting their last vote. And of course they will have their Member's card and they will put it in the slot and they will be casting their vote. And all of those votes may not be the same because we are quite different, as my dear friend, the gentleman from Texas (Mr. REYES), was saying. We have different opinions. We come from different regions of this great State of Texas. But what motivates us all would be the cardinal rule of how we vote. What do we base it on? People sometimes do ask that.

I think this is a great lesson I learned from my father who served for 37 years in this august body, as well as from the gentleman from Missouri (Mr. GEPHARDT). The gentleman from Missouri (Mr. GEPHARDT) when I arrived here in 1999 was our minority leader. He said, if you really want to do the right thing, if you want to enjoy service in the House of Representatives, every vote that you take, it is a real simple formula. First you vote your conscience because those are your principles and your values and you must face yourself every morning and do the right thing.

Secondly, vote your district because no one else represents your district. And lastly, vote your party. And the gentleman told me that that makes his job really hard as your leader because he is trying to keep us together. But thank God that that was our cardinal rule and that is what has guided us.

The seven Members that are departing followed that rule day in and day

out. It was their social conscience. It was their moral principles that guided them here every day, not as Democrats, not as Republicans, because like the gentleman from Missouri (Mr. GEPHARDT) said, that is the last factor, that is the last element that you take into consideration. But what were these individuals when they were serving here for so many years?

They were public servants. And the way they looked at it was that every citizen, every citizen in their district was their boss, whether a Democrat or a Republican, whether they were registered to vote or not, whether they were old enough to vote or not, you represented the district. And that is what was important. And you always voted the best interests of your district. And it was a simple formula.

But they also knew it was a higher calling. And that is what we lose here as an institution, men of high character and moral principles.

I am going to quote now Senator Joe Lieberman in his book ''In Praise of Public Life'':

''Although public figures may face the same everyday pressures as the people we represent, we are not and should not be judged by the same standards. More should be expected of us. We are public officials, not private citizens. Everything we do can become public and, therefore, has serious consequences for the community. We are, whether we like it or not, role models. We have voluntarily entered a contract with the voters that is based on trust. If we violate that trust, our government, our democracy suffers. So the first question a public figure must always ask himself when making a decision about his personal behavior or actions or votes, about whether to take an opportunity is not just is it legal, but rather, is it right.''

These are shining examples of individuals that made hard choices, difficult choices, but really in the final analysis were quite simple because they did the right thing.

So everyone that is listening to us tonight must wonder, well, if they were so great, why are they not coming back? Why were they not reelected? And I have my own theory, my own analysis of it. Not one of these gentlemen lost on the merits. Why they lost was really about form over substance.

Someone said it earlier, the rules were changed in the middle of the game, unfairly and in a perverse fashion. None of these gentlemen lost because they were not the very best that we had out there. They lost because of manipulation. They lost because people thought they could appeal to the most base instincts of human nature, which many times is about unfairness and injustice and fear and insecurity by Members of this House. This is repeated every day, day in and day out in this country. It is just that at this point in time it was concentrated in the State of Texas. And we see the result of seven dedicated public officials that had so much to give and did give. And we are the losers for it.

They did not lose. This Chamber lost; this country lost. They were casualties of a dangerous time. Of all things, I found a quote the other day and it is from a comedian. But it is not about comedy. And it was not about humor that he was writing about. He had time to reflect because he had a very serious thing that happened in his life, and that was that his wife had passed away. And he reflected on life and where society was today, and this is what George Carlin said:

''The paradox of our time in history is that we have taller buildings but shorter tempers, wider freeways but narrower viewpoints. We spend more but have less. We buy more but enjoy less. We have bigger houses and smaller families, more conveniences but less time. We have more degrees but less sense, more knowledge but less judgment, more experts yet more problems, more medicine but less wellness. We have multiplied our possessions but reduced our values. We talk too much, love too seldom, and hate too often. We have learned how to make a living but not a life. We have added years to life not life to years.''

His observation is so applicable to what is happening in the political process in this country today. Again, I will say these seven men did not lose these elections, but rather truly were casualties of what is transpiring, what is encouraged and promoted by seven individuals in this country. This is not love of country. This is not patriotism. This is not citizenship. This is not responsible behavior.

So the truth is, what should we do about it? Well, let us go back to the way things used to be where we are going to go ahead and we are going to have our good-faith disagreements. The truth really lies somewhere in the middle. Righteousness. The best answers do not reside on that side of the aisle, and they do not reside over here. They actually reside right here in the middle of the aisle, right here.

□ 2130

The problem is we never go and talk right there in that aisle. That separates us. That is the greatest gulf in this great country, wider than the Grand Canyon because we have made it wider than the Grand Canyon.

When winning is everything, it does not matter how you do it. What is happening? We are models. It is what JOE LIEBERMAN was talking about. We are models to all citizens in this country, and do we let our citizens down and our country down? Of course we do.

Let us stop defining ourselves by our differences. Let us come to the middle. Let us have a dialogue and a discourse. Let us not corrupt a political process, a legislative process, for political gain, be it Democrat or Republican. Because what happens here, great public servants, the very best this country has to offer will be the casualties and the victim of political greed and avarice. That is what we have tonight.

It is a sad moment, way beyond the seven Texans that we lose. Sad moment for this body, sad moment for this country.

I want to end my statements with my profound gratitude and appreciation for having known these seven individuals. I will continue to know them, and I have a sense that we will be sharing a swearing-in ceremony sometime in the future because things will right themselves. That is all part of human nature. We only let things get to a certain point of excess before we know that it is truly wrong.

These are wonderful individuals, and on a personal side, the absolutely personal side, these are my friends. It is never, never a happy moment when we say good-bye to friends, and this is what we say here tonight and tomorrow after the final vote. There will be great sadness, but something tells me they will overcome the adversity of what transpired and will rise to greater heights because they are totally capable of doing it but for a better reason. Our country needs them.

So to MAX and to JIM and to NICK and CHARLIE and MARTIN and CHRIS and CIRO, we need you and we know that you will continue making your great contribution and making this country a greater one even better than the one that we live in today. Thank you for your service and all I can say is I look forward to your return.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for his remarks. It is worth hearing each of my colleagues characterize what will really be in the annals of the history pages of this body, and I think all of us came to the floor tonight just to make sure that the story was not misinterpreted, because after every election there are defeats. There are winners and losers and most of the articles are written in the first week and then nothing else is said, and oh, those guys lost.

I thought it was very important that the Texas delegation come tonight to be able to say that those guys did not lose. If anybody lost, this body lost, America lost and Texas lost, and I will take just a moment myself to add just a few points into the record, as all my colleagues have indicated in calling each of their names.

So I just simply want to say to MARTIN FROST, thank him for being the political moderate but having the balance, along with his great influence on the Committee on Rules, and I might say that any Member in this body that has ever had an opportunity to go to the Committee on Rules, the powerful Committee on Rules, knows the value of MARTIN FROST's insight and encouragement and questioning to make a bill better or to be able to see the reason in what you offered so that the others who are in the room might be able to join in his reason and vote for good amendments to make bills better.

We thank him for that. We thank him for coming as our leader in the delegation week after week, leading us and guiding us around very important issues, and might I say, for those of us who came in the last decade, I believe that we were dealing with the redistricting issue for at least 8, 10 years as it relates to the constituents.

Everybody says the Member, but it was the constituents, and those of my colleagues who are here tonight recall the hearings that were held around the State of Texas. Thousands upon thousands of witnesses came forward and said they did not want any changes.

So it is not that we are speaking here tonight for these colleagues. Their constituents, voters, who are our bosses, told them that they wanted no changes, but one manipulated the system, refused to listen to the people.

I remember a witness coming up and saying, is anybody going to listen to us? Does anybody want to do what we said or asked them to do? This is just a voter, a witness, that waited hours in the hearing room to testify before the State Senate, hours into the night. I think it was 1:00 a.m. Is anybody going to listen to us?

So, MARTIN, we thank you for understanding that representation belongs to the people, and when you engaged in redistricting, you realized it was to make the people whole and to make them large.

Thank you, also, MARTIN, for taking this very terrible crisis that we had of violence in schools and helping to organize the Bipartisan Youth Task Force Against Violence that I sat on. Thank you for doing that and making a difference.

CHARLIE STENHOLM, 26 years of service in the House and to Texas and to the Nation. I have just got to say one thing. It is this House, the gentleman from Texas (Mr. REYES) said it. He called it the People's House. We like to say that in debate. I believe it is known in that manner through history and through the concept of the Founding Fathers. They wanted people to be different in this body.

CHARLIE STENHOLM is a farmer. I mean, he grows cotton. He understands farming and ranching, and he understands a large portion of this Nation that really believes they have been left out, the farmers of America, the ranchers of America, people that maybe some of us only know about because of what we consume.

It is important to note that this is an $80 billion industry in Texas, and look what happened? Because of reckless disregard for the people of Texas and even for this House, an ill-conceived plan now found a man that had been elected in what was really a very conservative district, some might say a Republican district, had been elected over and over again because those people understood that he was their servant. Now we have lost that expertise, and as I indicated, just 24 hours ago we were on this floor listening to his reason about how can we raise the debt again, how can we allow the numbers to go up even higher. Of course, we will lose that voice.

Thank you, CHARLIE, for, as was said by colleagues, having a pure sense of what is right and never wavering from it.

Let me also thank NICK LAMPSON. As many of my colleagues know, he is my neighbor in Houston, and I was there. We were all sort of caught up in the tragedy of the loss of this precious little 12 year old as NICK was just coming to Congress, and I do not know what struck him. I remember the specifics of it. He left Congress and went and joined the search for this very dear, little girl, something like the gentleman from Texas (Mr. EDWARDS) said, none of us can even mouth the words of losing a child.

So he joined the search, and I guess out of that came the inspiration of putting forward the Missing and Exploited Children's Caucus. He has been in conferences. He has spoken. He has put it on the map. He has been about the business of organizing communities around the idea of being against child abduction, and the caucus has over 130 members. It really has made a mark in its effort to fight against child pornography and many, many other issues. So we thank him for that.

He introduced the Bring Our Children Home Act with a 103 original cosponsors, and he really made this something that is clearly a mark that will not be forgotten on this Congress. We thank him for that.

We all know that CIRO RODRIGUEZ is called the nice guy, but he is a nice guy, but he is a tough guy on the issues that are, in fact, close to his heart. Here is a guy that I would see on the floor of the House night after night after night, chairman of the Hispanic Caucus, but he was on the floor talking about health care, not only for Hispanics but for Americans, and he was always talking about it for children. He chaired the Congressional Hispanic Caucus Health Task Force, but he took it very seriously.

I traveled with him. I saw him traveling around the country, going to summits on the question of health care and recognizing that we have 44 million Americans without health coverage, and he got up all the time and said how can we do this. Thank you, CIRO.

He fought to raise the attention on diabetes and HIV/AIDS and substance abuse and mental health, and he led the fight in Washington for Hispanic health awareness, and so we cannot thank him enough. He is a guy with a big heart. I guess it is that social work degree that he has, and we simply thank you, CIRO, and your wife for working to make the NIH better, helping to get more moneys to the NIH and certainly helping to put the focus of health care improvement in Hispanic Americans clearly on the map. We thank you so very much.

He has been called many things, but he was awarded the Community Superhero Award, and that speaks to CIRO in the words that he has done and what he has done on this floor as it relates to health care.

MAX SANDLIN, someone said, is the lawyer's lawyer. I remember it is a shame that we do not do what the gentleman from Texas (Mr. GONZALEZ) said and just meet right here in the middle because MAX was a former judge, and the only thing that he wanted us to do was to be pure in our debate. If we had some issues about the law or legal procedures, he did not want us to politicize it, scapegoat lawyer, scapegoat injured individuals who have no other way of addressing their grievances, people who have been damaged by the Food and Drug Administration, poor quality drugs or someone's child has been on a playground and fallen down because the equipment does not work properly or some other product liability issue. He wants to get to the core element, debate the merits, and he brought forth some of the most crafted, thoughtful legislation dealing with balancing the rights of consumers and others that may be concerned about the costs of litigation.

He was always here, not to be carrying forth the message of the single thought of trial lawyers, our friends, of course, who helped protect many Americans, but he was prepared to craft very intelligent legal arguments. It is a shame that we could not meet right here in the middle of the floor for MAX SANDLIN's very, very articulate, and well-thought-out legislative initiatives could not be heard.

He spoke very clearly that as a judge he understood what justice was all about, and I will always admire and respect him for his leadership, his work with the Democratic Children and Health Task Forces, again his very defined work on the Committee on Ways and Means, a new Member that he was, but still a Member that was prepared to tackle those hard issues on Medicare and the legal liability issue of Medicare.

You could always count on Congressman MAX SANDLIN to explain to you and get the legal liability issue out and make the bill better to serve all of us, and I thank him for that.

Let me thank JIM TURNER. I had the pleasure of serving with JIM TURNER, and I met JIM TURNER in Crockett, Texas. He was the mayor of Crockett. I knew him has a long-standing public servant. They loved him in Crockett, Texas, he and his family, his wife. He loved them, and lo and behold he comes to be a senator out of the Senate in Texas, and then he comes here to the United States Congress.

He did not come here to think that he was going to be the ranking member on the Select Committee on Homeland Security. He did not come here knowing what would happen on 9/11, but I tell my colleagues what happened when he got to get that position, as he, even in the knowledge of having to retire because there was no district for him, he did not sit down.

Chairman of the Blue Dog Coalition, many who may not know the Blue Dogs, the Yellow Dogs, the Blue Dogs had a different perspective. He never carried around on his shoulder in a way that would be offensive. He was a team player, but he had his values.

But on this Select Committee on Homeland Security he took the bull by the horns, if you will, and constructed documents, not to poison the waters but to make our Nation safer. We Members are better informed because we have document after document after document about the lack of cargo inspection, the need for more border patrol agents and detention spaces, the need for a better bioterrorism plan, the need for a better transportation plan.

JIM TURNER, as the ranking member on this Select Committee on Homeland Security, did just that, and we are very grateful for him in and his knowledge and his sensitivity.

□ 2145

Let me also say that the gentleman from Texas (Mr. TURNER), as was the gentleman from Texas (Mr. RODRIGUEZ), a big supporter, as is the gentleman from Texas (Mr. EDWARDS), of the military and the veterans. We could always, in this time when Democrats were sort of facing an uphill battle, sometimes because of the smearing that went about, about our patriotism, we were always glad that we had Texans in the room because we provided, I guess, the firewall. We could always get our colleagues, and I am pointing to the ones I am speaking about, really to be able to know that this is a diverse caucus and there is no divide on the support of this caucus for veterans and the military.

As we all know, our colleague, the gentleman from Texas (Mr. REYES), along with the gentleman from Texas (Mr. RODRIGUEZ) and the gentleman from Texas (Mr. TURNER), all served on the Committee on Armed Services. So I guess we had our share of Members on the Committee on Armed Services. And I know the work the gentleman from Texas (Mr. EDWARDS) has done on the Committee on Appropriations. And then, of course, the Committee on Veterans' Affairs, which CIRO RODRIGUEZ was on. We set the standard that there is no challenge that you can make against us in terms of our support for our troops.

In fact, let me just make a personal mention that I have got a physician in my community that is reaching beyond 50 years of age, and I know he will not mind me saying it. He has just been called up to Germany to take care of those injured persons who are coming in, and he is a Texan serving out of Fort Hood who is in the reserve and is now being called out of his practice and is going. And I pay tribute to Dr. Daley tonight. And I am only saying that I am glad he had our colleagues, Dr. Warren Daley. I am glad he had our colleagues to be able to protect him and to be able to stand up for him.

The gentleman from Texas (Mr. BELL), whom I traveled with, has been an excellent member of the Committee on International Relations and the Committee on Financial Services. He had the medical center in his district, and of course his predecessor was Mike Andrews. A number of others from the district, Mike Andrews, of course, most recently, and Ken Bentson. But I can assure he did not lose any time in getting to know the medical center's issues. After the terrible hurricane that we had, and following up with Ken Bentson, he got right in there and worked very, very meticulously on the needs of the medical center.

He was someone who had background in local government, the Houston City Council, and he brought a sense of understanding about respecting and responding to local government needs, and so we worked together on the needs of metro. He was unabashedly for light rail and was shocked that he would come to this body and find someone who is from Texas, our own colleague, would be standing up against the people of Houston getting the right kind of transportation system. So he was not afraid to stand up for transportation issues, work with the financial community in Houston, and as well he was a leader by being named senior whip and being part of the whip system. And I think that he was clearly someone who was having a great time but also was a great servant of the people.

So tonight we have the opportunity to call their names and as well to pay tribute. I wanted to just mention, and I see my colleague standing, but I wanted to just mention again names like Lyndon Baines Johnson because I had the opportunity to be with former President Johnson's two daughters just the other day at the Clinton Library. I thanked them again for their father and their mother. And I know that the gentleman from Texas (Mr. EDWARDS) talked about his predecessors, whom he named and talked about in 1970, with so many years of experience that Texans have brought to this body. They have been here in a collegiate manner. We have shared with our colleagues that are here. We are not selfish, we are not arrogant, but we are proud of our legacy and our history, and clearly we believe that we come from good stock.

Let me just say this, that Booker T. Washington said, ''Character, not circumstances, makes the man.'' I might paraphrase and say ''makes the person.'' We can be assured that we have got some fellow Texans who will be leaving tomorrow that have certainly been made by the character that they possess.

Mr. Speaker, I yield now to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I thank the gentlewoman from Houston, as I finish with a couple of comments on my part, Mr. Speaker.

As we celebrate the extraordinary public service of seven great Texans, I must also say as a Texan there is a lot that we will miss. As a Texan and as Texans we will miss 80 years of seniority in this body, the House of Representatives, where seniority means a lot in terms of effectiveness for our States.

Texas and I will miss having the ranking member, the senior Democrat on the Committee on Rules, one of the most important committees anywhere in Congress. We will miss having the ranking member of the Committee on Agriculture, and we will miss having the ranking member of Homeland Security. Perhaps this is Texas's gift to the States of New York, Minnesota, and Mississippi, who will now have those ranking positions.

We will miss having the chairman of the House Congressional Hispanic Caucus, an important voice for Hispanics throughout Texas and our country. We will miss having the chief deputy whip on the Democratic side and a member of the Committee on Ways and Means, and we will miss a true national leader on the issue of missing children.

I think our greatest loss, as important as it is and as sad as it is for our State to have lost 80 years of seniority in the ranking positions of key committees, our greatest loss is that we will lose people of great integrity who were truly dedicated to the principle of unselfish public service.

I do not grieve for these Magnificent Seven. They are bright, talented, hardworking, capable people with good families. They will do well. I do grieve for the 4.2 million Texas citizens who were denied the right to vote for the reelection of their present Member of Congress as a result of redistricting.

And personally I will miss the daily friendship and interactions with these good people, people who will be our friends for a lifetime. We will miss that daily interaction of these good, decent people.

I have nothing but best wishes and wish Godspeed to MARTIN FROST, CHARLIE STENHOLM, NICK LAMPSON, CIRO RODRIGUEZ, CHRIS BELL, JIM TURNER, MAX SANDLIN, and their families.

And I would finish my comments, before yielding back to the gentlewoman from Houston, with the words of Winston Churchill who once reminded us that ''we make a living by what we get, but we make a life by what we give.'' By that very high standard, these great seven Texans have lived a rich life, and I know they will continue to give to their communities, their State, and their country; and we wish them all the best in the years ahead.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for his kind words. Mr. Speaker, I yield now to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman for yielding to me, and I will be brief because I know that, or at least I hope our colleagues are watching this evening. But we do thank them for their public service and we do recognize, as the great poet once said,

that the true measure of an individual who is successful in life is the fact that when that life is done he or she will have left not only a mark but will have left a legacy of leaving the world a better place.

Our colleagues, of course, are going on to bigger and better things, and perhaps we will see them back here in the very near future. So to them, not only do we salute them tonight but we thank them for their service and their willingness to share of themselves with the rest of us here in the people's House. We wish them well. I know they are blessed, because they have left their mark in this House.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank my colleagues for being here this evening, and before I close I want to make mention of the dean of our State who will serve us in the 109th Congress, and that is the gentleman from Texas (Mr. ORTIZ), who helped to convene us for a very warm occasion this evening. We were very grateful for that.

We know that we will move on in the 109th Congress. We will pull together and we will work together. But for any of those who are wondering why we stand on the floor tonight, it is because we did not want this session to end without the appropriate knowledge and respect for these colleagues who served, and who fought, but did not prevail. They did not lose. And I think that is the point we want to make tonight, that these are people defeated, but these are people who have not lost.

Again, I want to thank MARTIN FROST, CHARLIE STENHOLM, CIRO RODRIGUEZ, NICK LAMPSON, MAX SANDLIN, JIM TURNER, and CHRIS BELL. Let it be known that the Texas delegation will remain strong and united, full of hope and full of aspirations. Let it also be known that these are our friends and colleagues who we have traveled down many roads with, both smooth and bumpy roads. But let it be known, most especially, that we wish them Godspeed.

I leave my colleagues tonight with these simple words that I paraphrase from Mary McCloud Bethune. She said, I leave you hope. I leave you the challenge of developing confidence in one another. I leave you respect for the use of power. I leave you faith. I leave you dignity.

Shakespeare said, Unto each of us is given a bag of tools and a book of rules, and each must make of life as though a stumbling stone or stepping stone. I think we have made a stepping stone tonight, and I wish for those who will be leaving us many stepping stones and many, many days of happiness and good luck.

I rise this evening to pay tribute to and bid a fond farewell to seven distinguished colleagues, leaders, and friends. As we approach the end of the 108th Congress, a legacy of successful public service will close for these gentlemen. Tonight, Mr. Speaker, I would like to personally thank 7 of my 17 Texas Democratic colleagues for what they have done for their respective congressional districts, the State of Texas, the United States of America, and to the international community.

Congressmen MARTIN FROST, CHARLIE STENHOLM, NICK LAMPSON, CIRO RODRIGUEZ, MAX SANDLIN, JIM TURNER, and CHRIS BELL will be missed for the high standard of achievement and commitment to upholding the integrity that membership in the House of Representatives connotates.

I have had the sincere honor of serving with Congressman MARTIN FROST, the senior Member of Congress from Texas. Congressman FROST is the ranking Democratic member of the influential House Rules Committee. Congressman FROST is also the senior southern Democrat in the House and has previously served as chair of the Democratic Caucus.

So it is with great sadness that Congressman FROST's long record of leadership in Congress is coming to an end after a bitter redistricting battle in Texas.

Congressman FROST brought common sense and a practical approach to a variety of senior positions. Within the Texas delegation, he is widely respected for his ability to bring together Members with different regional and ideological backgrounds, allowing the Caucus to work toward a common agenda that addresses the real concerns of working families.

A political moderate, Congressman FROST has also brought together both representatives of the business and labor communities with Democratic Members to discuss issues affecting their industries.

Congressman FROST served on the House Committee that considered the creation of the Department of Homeland Security. Congressman FROST has also served as co-chair of bipartisan panels addressing the causes of youth violence and the continuity of Congress in the event of a terrorist attack.

Congressman FROST, I have always looked to you as a leader and as a representative of all that is good in Congress. Your departure will leave a gaping hole in the Texas legislature, and you will be missed.

Let me take a few minutes to congratulate CHARLIE STENHOLM for his 26 years of service in the House to Texas and to the Nation. I've had the pleasure of working with him since I've been in Congress and as a friend and colleague in the Texas Democratic delegation. I appreciated the welcome he gave to me when I came to Washington and now I want to wish him the best as he starts his new endeavors.

CHARLIE's experience as a farmer, teacher, and head of the Rolling Plains Cotton Growers Association contributed to his skillful leadership of the Democrats on the Agriculture Committee. He was able to understand the needs of the farmers who help to feed us in balance with fiscal restraint. That's critical to Texas, where agriculture is still the State's second-largest industry, with an annual economic impact of $80 billion. In fact, CHARLIE still runs a cotton, wheat, and cattle operation in Jones County with his son Cary. He brought this great knowledge to our Congress.

Thanks CHARLIE for all your service.

Congressman NICK LAMPSON has always been fighting for what is right in the world, and that is the well being of children.

Whatever his initial ambitions coming into Congress were, things for Congressman LAMPSON were instantly changed just months into his first term, when a family in the 9th District suffered a terrible tragedy. A 12-year-old girl from Friendswood was abducted and found murdered 2 weeks later. Congressman LAMPSON wanted to take immediate action and bring Congress to their feet. He founded the Congressional Missing and Exploited Children's Caucus to build awareness around the issue of missing and exploited children for the purpose of finding children who are currently missing and to prevent future abductions. He succeeded in creating a voice within Congress on the issue of missing and exploited children and introduced legislation that would strengthen law enforcement, community organizing and school-based efforts to address child abduction. His caucus currently has over 130 members.

With the power of the Caucus behind him, the former high school science teacher has fought continuously in Congress to help families protect their children and aid communities and law enforcement searching for missing children. He has sponsored legislation to fund law enforcement efforts to stop child pornography and exploitation on the Internet.

Congressman LAMPSON introduced the Bring Our Children Home Act with 103 original cosponsors in both the 106th and 107th Congresses. This bill established a right of action in Federal court for resolution of child custody disputes and establishes a National Registry of Custody Orders. It also requires the Department of Justice and the Department of State to report to Congress on International Parental Kidnapping Crime Act warrants and extradition.

I want to close with a quote from one of my personal role models, Mary McCloud Bethune,

> I leave you hope. I leave you the challenge of developing confidence in one another. I leave you respect for the use of power. I leave you faith. I leave you . . . dignity.

Congressman NICK LAMPSON, you will be missed dearly.

The 28th Congressional District has been served by a true man for others out of San Antonio, TX, Congressman CIRO RODRIGUEZ since 1997. My colleagues and I have enjoyed his leadership in the protection of our nation's veterans through his actions in the House Committee on Veterans' Affairs. The over 50,000 veteran constituents in his district know the sincerity and conviction of his work in that body.

As a member of the Committee on Armed Services, the gentleman did great things for military healthcare facilities. Through legislative efforts, he facilitated the ability of military hospitals to recoup increased funds for civilian trauma care.

He currently serves as the chair of the 20-member Congressional Hispanic Caucus, as well as the chair of the Congressional Hispanic Caucus, CHC, Health Task Force, leading the fight to improve access to healthcare and reduce health disparities for Hispanics and all Americans. During his tenure in Congress, Congressman RODRIGUEZ organized the first ever Hispanic Health Awareness Week focusing on three diseases that disproportionately affect the Hispanic community: Diabetes, HIV/AIDS, and substance abuse/mental health. Not only has he led the fight in Washington for Hispanic Health Awareness, but he continued to aid those in his district by organizing and leading the National Hispanic Health Leadership Summit in San Antonio, TX.

This gentleman is one of a few Members of Congress with a master's degree in Social

Work, was an counselor/caseworker at the Bexar County Mental Health and Mental Retardation from 1971–1974 and 1978–1980. The result of this training is that Congressman RODRIGUEZ recognized that social workers play an invaluable role within our Nation's social service infrastructure. In 2004, he reintroduced H.R. 3887, the National Center for Social Work Research Act, which would establish a research center within the National Institutes of Health. Congressman RODRIGUEZ has continued working to encourage NIH to better integrate social work research into their mission. In 2002, he helped secure language in a congressional appropriations bill directing NIH to develop a social work research plan.

CIRO has held a long and distinguished career receiving numerous awards such as the National Hispanic Medical Association's Leadership Award given earlier this year by the National Hispanic Medical Association for his leadership and his initiative on Hispanic health disparities. He earned the 2003–2002 Community Health Super Hero Award from the National Association of Community Health Centers, Inc. and Health Centers from the State of Texas recognizes the Congressman's strong and consistent support for health centers and the patients they serve in communities across the country throughout the Second Session of the 107th Congress.

I along with the other members of the Texas Congressional Delegation have been honored to serve alongside CIRO D. RODRIGUEZ. Although we will miss his friendship and leadership, I am sure that as he looks back upon his illustrious career of civil service, he will be proud to have served the constituents of 28th Congressional District of Texas.

It has been such a privilege to serve with Congressman MAX SANDLIN. As one of the most compassionate Members of Congress, he was recently appointed to serve on the Ways and Means Committee, the most powerful and esteemed committee in the House.

Congressman MAX SANDLIN and I were members of the Democratic Children and Health Task Forces. Both he and I worked hard to champion legislation that protected working families with children. I have always admired him for his strategic use of his position to gain consensus among his colleagues, identify important issues, and formulate policy.

As a Member from an urban district in Texas, I could always count on Congressman MAX SANDLIN to add the voice of rural America and fiscal responsibility to the leadership of the Democratic Party.

As we faced the harsh injustices of redistricting, Congressman SANDLIN stood strong, redoubled his efforts to maintain what he believes in, and did not back down. Even though he was not able to emerge victorious in this cycle, I am confident that a man of his caliber will return to public service.

I have had the honor and privilege of serving with Congressman JIM TURNER in the House Select Committee on Homeland Security. I always felt confident that as the ranking member of the House Select Committee on Homeland Security, JIM was working to protect the safety and security of the American people in the war on terrorism. He lead the Democratic charge for the ushering in of several pieces of important legislation that will help this nation fight back against global terrorism and keep our families safe.

Congressman TURNER retired after four terms in Congress, a decision that I know as difficult. Unfortunately, we are not able to control all the events in our life, and Congressman TURNER did not have a fair or unbiased chance for reelection.

A longtime fiscal conservative, Congressman TURNER was the cochair of the ''Blue Dog'' Coalition. In addition, his work in Congress focuses on promoting economic development and forestry in east Texas. He continues to work for senior citizens through his sponsorship of legislation to lower prescription drug costs.

I have always enjoyed working with Congressman TURNER, who was able to bridge the partisan divide and make friends on both sides of the aisle. I wish you the best of luck in the future.

I am honored to be here today to speak on behalf of my colleague, CHRIS BELL. Our districts border one another in Houston, so I have been privileged to know and work with CHRIS BELL during his time in Congress. Similar to my own background, CHRIS BELL is a former Houston City Council Member. Congressman BELL has earned a reputation as an independent thinker with a common sense approach to governing. He has built an exceptional public service career around defending the truth, championing the people's issues and maintaining the integrity of public office.

During the Enron debacle that affected thousands of Houstonian's, Congressman BELL and former Democratic Leader DICK GEPHARDT, held a town hall meeting calling for corporate employee retirement security and executive accountability. Additionally, BELL executed a citywide campaign to educate employees on the importance of diversification of assets. Congressman CHRIS BELL is an outstanding example of what it means to stand up for truth, something that I will always admire in him. He has taken a stand against unethical actions in this body and the public owes him a debt of gratitude for that. Congressman BELL, I applaud you for your groundbreaking courage.

Congressman BELL's leadership qualities have been noticed by many, particularly by Democratic Whip STENY HOYER, who appointed him as a ''Senior Whip.'' There is a large void to fill with Congressman BELL's departure.

In closing, I would like to quote Booker T. Washington, who said, ''Character, not circumstances, makes the man.''

Gentlemen, again, thank you very much for your service, leadership, and friendship. Please know that I will always be happy to ''yield back the remainder of my time to you if you ever need me.'' The best of luck to you and your respective families in your future lives.

GENERAL LEAVE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to submit written statements on the subject matter of my Special Order this evening.

The SPEAKER pro tempore (Mr. PENCE). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Proceedings on H. Res. 853 and H.R. 5382 will resume tomorrow.

RECESS

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

Accordingly (at 9 o'clock and 53 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0018

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOBSON) at 12 o'clock and 18 minutes a.m.

CONFERENCE REPORT ON H.R. 4818, CONSOLIDATED APPROPRIATIONS ACT, 2005

Mr. YOUNG of Florida submitted the following conference report and statement on the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes:

[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:

Mr. KIND (at the request of Ms. PELOSI) for today after 7:00 p.m. and the balance of the week on account of a prior family commitment.

Mr. ROTHMAN (at the request of Ms. PELOSI) for today on account of a family obligation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CUMMINGS) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ORTIZ, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mr. REYES, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mr. BALLENGER) to revise and extend their remarks and include extraneous material:)

Mr. WILSON of South Carolina, for 5 minutes, today.

Mr. BOOZMAN, for 5 minutes, today.

Mr. WALSH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GILCHREST, 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. 1217. An act to direct the Secretary of Health and Human Services to intensify programs with respect to research and related activities concerning falls among older adults; to the Committee on Energy and Commerce.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1113. An act to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

H.R. 1446. An act to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

H.R. 1964. An act to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

H.R. 3936. An act to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes.

H.R. 4516. An act to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2986. An act to amend title 31 of the United States Code to increase the public debt limit.

ADJOURNMENT

Mr. YOUNG of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 19 minutes a.m.), the House adjourned until today, Saturday, November 20, 2004, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

11010. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Importation of Fruits and Vegetables [Docket No. 02-106-2] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11011. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Pine Shoot Beetle Host Material From Canada [Docket No. 00-073-2] (RIN: 0579-AB76) October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11012. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Bees and Related Articles [Docket No. 98-109-2] (RIN: 0579-AB20) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11013. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Oriental Fruit Fly; Designation of Quarantined Area [Docket No. 04-106-1] received November 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11014. A letter from the Acting Administrator, FSIS, Department of Agriculture, transmitting the Department's final rule — Nutrition Labeling; Nutrient Content Claims on Multi-Serve, Meal-Type Meat and Poultry Products [Docket No. 00-046F] (RIN: 0583-AD07) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11015. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule — Walnuts Grown in California; Decreased Assessment Rate [Docket No. FV04-984-2 IFR] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11016. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2004-2005 Marketing Year [Docket No. FV04-985-2 IFR] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11017. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule — Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate [Docket No. FV04-987-2 IFR] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11018. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a FY 2003 report entitled, ''Performance of Commercial Activities,'' pursuant to 10 U.S.C.2461(g); to the Committee on Armed Services.

11019. A letter from the Director, Defense Research and Engineering, Department of Defense, transmitting Notification of intent to obligate funds for test projects for inclusion in the Fiscal Year 2005 Foreign Comparative Testing (FCT) Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

11020. A letter from the Alternate OSD FRLO, Department of Defense, transmitting the Department's final rule — TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2002, (NDAA-02), and a Technical Correction Included in the NDAA-03 (RIN: 0720-AA89) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11021. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Federal Prison Industries — Deletion of Duplicative Text [DFARS Case 2004-D005] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11022. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Transisiton of Weapons-Related Prototype Projects to Follow-On Contracts [DFARS Case 2003-D106] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11023. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions [DFARS Case 2003-D016] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11024. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Sealed Bidding [DFARS Case 2003-D076] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11025. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Research and Development Contracting [DFARS Case 2003-D067] received Novemebr 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11026. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Contractor Qualifications Relating to Contract Placement [DFARS Case 2003-D011] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11027. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulations Supplement; Insurance [DFARS Case 2003-D037] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11028. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulations Supplement; Acquisition of Commercial Items [DFARS Case 2003-

D074] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11029. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Laws Inapplicable to Commercial Subcontractors [DFARS Case 2003-D018] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11030. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Cost Priciples and Procedures [DFARS Case 2003-D036] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11031. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Procedures, Guidance, and Information [DFARS Case 2003-D090] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11032. A letter from the Acting Under Secretary for Acquisition and Technology, Department of Defense, transmitting the Fiscal Year 2003 Defense Environmental Technology Program Annual Report, pursuant to 10 U.S.C. 2706; to the Committee on Armed Services.

11033. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting proposed test and evaluation (T&E) budgets for FY 2005 that have not been certified as adequate by the Director of the Defense Test Resource Management Center (TRMC), pursuant to 10 U.S.C. 196 Public Law 108–136, section 212; to the Committee on Armed Services.

11034. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the report on the amount of DoD FY 03 purchases from foreign entities that manufactured articles, materials, or supplies made outside of the United States, pursuant to Public Law 108–199, section 645; to the Committee on Armed Services.

11035. 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 brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

11036. 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 brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

11037. 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 of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

11038. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Raymond T. Odierno, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

11039. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Captain Jeffrey A. Lemmons, United States Navy, to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

11040. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral James W. Metzger, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

11041. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Amended Service Obligation Reporting Requirements for State Maritime Academy Graduates [Docket No. MARAD-2004-19397] (RIN: 2133-AB61) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11042. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Electronic Options for Transmitting Certain Information Collection Responses to MARAD [Docket Number: MARAD-2003-16238] (RIN: 2133-AB64) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11043. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Amended Service Obligation Reporting Requirements for U.S. Merchent Marine Academy Graduates [Docket Number: MARAD-2004-17185] (RIN: 2133-AB66) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11044. A letter from the Secretary, Department of Transportation, transmitting the annual report of the Maritime Administration (MARAD) for Fiscal Year 2003, pursuant to 46 U.S.C. app. 1118; to the Committee on Armed Services.

11045. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Collection of Checks and Other Items by the Federal Reserve Banks and Funds Transfers through Fedwire [Regulation J; Docket No. R-1202] received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11046. A letter from the Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Rules, Policies, and Procedures for Corporate Activities; Annual Report on Operating Subsidiaries [Docket No. 04-23] (RIN: 1557-AC81) received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11047. A letter from the Regulatory Specialist, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Rules, Policies, and Procedures for Coporate Activities; Annual Report on Operating Subsidiaries [Docket No.04-23] (RIN: 1557-AC81) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11048. A letter from the Acting Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's final rule — Business and Industry Guaranteed Loan Program — Implementation of Farm Security and Rural Investment Act of 2002 Provisions — received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11049. A letter from the Acting Under Secretary for Rural Development, Department of Agriculture, transmitting the Department's final rule — Business and Industry Loans; Revisions to Implement 2002 Farm Bill Provisions (RIN: 0570-AA39) received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11050. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11051. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7847] received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11052. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7849] received November 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11053. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Participating in HUD's Native American Programs by Religious Organizations; Providing for Equal Treatment of All Program Participants [Docket No. FR-4915-F-02] (RIN: 2577-AC56) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11054. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Implementation of Requirement in HUD Programs for Use of Data Universal Numbering System (DUNS) Identifier [Docket No. FR-4876-F-02] (RIN: 2501-AD01) received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11055. A letter from the President and Chairman, Export-Import Bank, transmitting a report on a transaction involving U.S. exports to Malaysia pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

11056. A letter from the Director, OLA, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Rules of Practice and Procedures (RIN: 3064-AC76) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11057. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity Under the Fair Credit Reporting Act (RIN: 3084-AA94) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11058. A letter from the Chairperson, National Council on Disability, transmitting a report entitled, ''Design for Inclusion: Creating a New Marketplace,'' pursuant to 29 U.S.C. 781(a)(8); to the Committee on Education and the Workforce.

11059. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting

the Corporation's final rule — Benefits Payable in Terminated Single- Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

11060. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Energy Information Administration's Annual Energy Review 2003, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

11061. A letter from the Secretary, Department of Energy, transmitting the forty-ninth report outlining the status of Exxon and Stripper Well Oil Overcharge Funds as of March 31, 2004, satisfying the request set forth in the Conference Report accompanying the Department of Interior and Related Agencies Appropriations Act of 1988 (Public Law 100-202); to the Committee on Energy and Commerce.

11062. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Orthopedic Devices; Effective Date of Requirement for Premarket Approval for Hip Joint Metal/Polymer or Ceramic/Polymer Semiconstrained Resurfacing Cemented Prosthesis [Docket No. 2003N-0561] Recieved October 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11063. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Advisory Committee; Change of Name and Function; Technical Amendment — received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11064. A letter from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Platform Lifts for Motor Vehicles, Platform Lift Intallations in Motor Vehicles [Docket No. NHTSA-2004-19209] (RIN: 2127-AJ18) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11065. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Great Basin and Ventura County Air Pollution Control Districts [CA-295-0470a; FRL-7834-2] received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11066. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans: Oregon [OR-04-002; FRL-7835-2] received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11067. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Volatile Organic Compound Emissions from AIM Coatings [PA211-4231; FRL-7835-4] received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11068. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Dexter, Georgia) [MB Docket No. 04-69; RM-10859] received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11069. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Cross City, Florida) [MB Docket No. 04-195 RM-10975] (Key Largo, Florida) [MB Docket No. 04-196 RM-10970] (McCall, Idaho) [MB Docket No. 04-197 RM-10971] (McCall, Idaho) [MB Docket No. 04-198 RM-10977] (McCall, Idaho) [MB Docket No. 04-199 RM-10978] (McCall, Idaho) [MB Docket No. 04-200 RM-10979] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11070. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of Section 7.202(b), Table of Allotments, FM Broadcast Stations. (Cordele, Dawson, and Pinehurst, Georgia) [MM Docket No. 04-33 RM-10847] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11071. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Smiley, Yoakum and Markham, Texas) [MB Docket No. 02-248 RM-10537 RM-10710] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11072. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (El Indio, Texas) [MB Docket No. 04-169 RM-10760] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11073. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Boligee, Alabama) [MB Docket No. 04-213 RM-10991] (Vaiden, Mississippi) [MB Docket No. 04-216 RM-10994] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11074. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations. (Maplesville, Alabama) [MB Docket No. 03-5 RM-10393] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11075. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Windsor and Bethel, North Carolina) [MB Docket No. 04-72 RM-10857] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11076. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Green Bay, Wisconsin) [MM Docket No. 01-334 RM-10343] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11077. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Valley Mills, Teague, Brady, Hico, Meridian, San Saba, Richland Springs, Texas) [MM Docket No. 01-47 RM-10063] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11078. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Trenton and Burlington, New Jersey) [MB Docket No. 04-150 RM-10857] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11079. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Telecommunications Services Inside Wiring; Customer Premises Equipment [CS Docket No. 95-184] Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Cable Home Wiring [MM DOcket No. 92-260] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11080. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Susanville, Quincy, Corning, and Portola, California) [MB Docket No. 04-164 RM-10548 RM-11048] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11081. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Fresno, California) [MB Docket No. 04-236 RM-11001] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11082. A letter from the Deputy Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems [ET Docket No. 04-37] Carrier Current Systems, including Broadband over Power Line Systems [ET Docket No. 03-104] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11083. A letter from the Deputy Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems [ET Docket No. 00-258] Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands [WT Docket No. 02-8] Received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11084. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule — Nationwide Programmatic Agreement Regarding the Section 106 National Historic

Preservation Act Review Process [WT Docket No. 03-128] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11085. A letter from the Chief, Network Technology Division, Federal Communications Commission, transmitting the Commission's final rule — New Part 4 of the Commission's Rules Concerning Disruptions to Communications [ET Docket No. 04-35] received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11086. A letter from the Deputy Chief, Competition Policy Div., WCB, Federal Communications Commission, transmitting the Commission's final rule — The Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 [CC Docket No. 96-128] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11087. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations; and Section 73.622(b), Table of Allotments Digital Broadcast Television Stations. (Mobile, Alabama) [MB Docket No. 04-281 RM-11041] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11088. A letter from the Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Billings, Montana) [MB Docket No. 04-183 RM-10964] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11089. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 2 of the Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems [Dkt No. 00-258] Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communication Service (RM-9498) Petition for Rule Making of UTStarcom, Inc. (RM-10024) Amendment of Section 2.106 of the Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service [Dkt. No. 95-18] Received November 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11090. A letter from the Secretary, Federal Trade Commission, transmitting the Report to Congress for 2002 pursuant to the Federal Cigarette Labeling and Advertising Act, pursuant to 15 U.S.C. 1337(b); to the Committee on Energy and Commerce.

11091. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Risk-Informed Categorization and Treatment of Structures, Systems and Components for Nuclear Power Reactors (RIN: 3150-AG42) received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11092. A letter from the Direcotr, International Cooperation, Department of Defense, transmitting pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, a copy of Transmittal No. 12-04 which informs of an intent to sign a Project Agreement concerning Cooperation in the Research and Development of Technologies Applicable to Ship Defense Missiles (RAM P3I) between the United States and Germany, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

11093. A letter from the Director, International Cooperation, Department of Defense, transmitting pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, a copy of Transmittal No. 11-04 which informs of an intent to sign a Project Agreement concerning Standard Missile Production between the United States, Germany, and The Netherlands, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

11094. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel (Transmittal No. DDTC 049-04A), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11095. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Canada (Transmittal No. DDTC 085-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

11096. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Belgium (Transmittal No. DDTC 080-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

11097. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting pursuant to the Taiwan Relations Act, agreements concluded between January 1 and December 31, 2003, pursuant to 22 U.S.C. 3311(a); to the Committee on International Relations.

11098. 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.

11099. 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.

11100. 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.

11101. 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.

11102. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 62(a) of the Arms Export Control Act (AECA), notification concerning the Office of the Assistant Secretary of Defense's (Networks and Information Integration), (ASD (NII)) proposed lease of defense articles to the Government of Moldova (Transmittal No. 08-04); to the Committee on International Relations.

11103. A letter from the Secretary, Department of the Treasury, transmitting as required by Section 901(j)(5)(B) of the Internal Revenue Code, 26 U.S.C. 901(j)(5)(B), and pursuant to Presidential Determination 2004-48 of September 20, 2004, a report stating the President's intention to grant a waiver of section 901(j)(1) with respect to Libya and the reason for the determination that such a waiver is in the national interests of the United States and will expand trade and investment opportunities for U.S. companies in Libya; to the Committee on International Relations.

11104. A letter from the Deputy Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003; to the Committee on International Relations.

11105. A letter from the Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — Entity List: Removal of Four Russian Entities [Docket No.041103304-4304-01] (RIN: 0694-AD12) received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

11106. A letter from the Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — Computer Technology and Software Eligible for Export under License Exception; and Establishment of ''Foreign National Review'' Requirement and Procedure. [Docket No. 041020285-4285-01] (RIN: 0694-AD18) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

11107. A letter from the Assistant Secretary For Export Administration, Department of Commerce, transmitting the Department's final rule — Microprocessor Technology Eligibility for Export under License Exception [Docket No. 041018284-4284-01] (RIN: 0694-AD04) received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

11108. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Section 620C(c) of the Foreign Assistance Act of 1961, as amended, and in accordance with section 1(a)(6) of Executive Order 13313, a report prepared by the Department of State and the National Security Council on the progress toward a negotiated solution of the Cyprus question covering the period June 1, 2004 through July 31, 2004; to the Committee on International Relations.

11109. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report requested in the Participation of Taiwan in the World Health Organization Act, 2004 (Pub. L. 108-235), Section 1(c); to the Committee on International Relations.

11110. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting as required by Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1641(c) and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), the six-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994; to the Committee on International Relations.

11111. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, a certification regarding the proposed transfer of

U.S.-origin defense equipment from the Government of the Netherlands (Transmittal No. RSAT-08-04); to the Committee on International Relations.

11112. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense equipment from the Government of the Netherlands (Transmittal No. RSAT-07-04); to the Committee on International Relations.

11113. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report concerning methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 ''Joint Communique'' and the treatment by the Government of Cuba of persons returned to Cuba in accordance with the United States-Cuba May 1995 ''Joint Statement,'' together known as the Migration Accords, pursuant to Public Law 105–277, section 2245; to the Committee on International Relations.

11114. A letter from the Secretary, American Battle Monuments Commission, transmitting the Commission's FY 2004 annual report, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

11115. A letter from the Chairman, Christopher Columbus Fellowship Foundation, transmitting pursuant to the Accountability of Tax Dollars Act, the Foundation's financial statements as of and for the year ended September 30, 2004, prepared by the U.S. General Services Administration; to the Committee on Government Reform.

11116. A letter from the Chief Financial Officer and Assistant Secreary for Administration, Department of Commerce, transmitting the Department's Annual Progress Report to Congress, covering interagency activities and DoC-specific activities between May 2003 and May 2004, pursuant to Public Law 106–107; to the Committee on Government Reform.

11117. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting the FY 2004 report pursuant to the Federal Managers' Financial Integrity Act and the Inspector General Act Amendments of 1978, pursuant to 31 U.S.C. 3512(c)(3) 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

11118. A letter from the Chairman, Federal Maritime Commission, transmitting in accordance with OMB Circular No. A-11, Part 2, the Final Annual Performance Plan for FY 2005; to the Committee on Government Reform.

11119. A letter from the Acting Chairman, Merit Systems Protection Board, transmitting the Board's report, ''Identifying Talent Through Technology: Automated Hiring Systems in Federal Agencies,'' pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform.

11120. A letter from the Administrator, National Aeronautics and Space Administration, transmitting in accordance with the Reports Consolidation Act of 2000, enclosed is the FY 2004 Performance and Accountability Report; to the Committee on Government Reform.

11121. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's 2004 FAIR Act Inventory; to the Committee on Government Reform.

11122. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the 2004 annual report on the agency's compliance with the Inspector General Act and the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

11123. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, ''Analysis of the Office of the Chief Financial Officer's Exception Account for FY 2003 and 2004, as of June 30, 2004''; to the Committee on Government Reform.

11124. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Cost-of-Living Allowances (Nonforeign Areas); Methodology Changes (RIN: 3206-AK29) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

11125. A letter from the Office of Special Counsel, transmitting the fiscal year 2004 reports required by the Federal Managers' Financial Integrity Act and the Inspector General Act, pursuant to 31 U.S.C. 3512(c)(3) 5 U.S.C.A. Apprendix 3, Section 8G(h)(2); to the Committee on Government Reform.

11126. A letter from the Acting Director, Selective Service System, transmitting the FY 2004 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

11127. A letter from the Director, Trade and Development Agency, transmitting the Agency's annual financial audit for FY 2004, pursuant to 22 U.S.C. 2421(e)(2); to the Committee on Government Reform.

11128. A letter from the Assistant General Counsel, Federal Election Commission, transmitting the Commission's final rule — Coordinated and Independent Expenditures by Party Committees [Notice 2004-014] received November 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

11129. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Political Committee Status, Definition of Contribution, and Allocation for Spearate Segregated Funds and Nonconnected Committees [Notice 2004-15] received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

11130. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Mariana Fruit Bat and Guam Micronesian Kingfisher on Guam and the Mariana Crow on Guam and in the Commonwealth of the Northern Mariana Islands (RIN: 1018-AI25) received October 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11131. A letter from the Asst. Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Interim Rule for the Beluga Sturgeon (Huso Huso) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11132. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #13 — Adjustments of the Recreational Fisheries from the U.S.— Canada Border to Cape Falcon, Oregon [Docket No. 040429134-4135-01; I.D. 102504C] received November 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

11133. A letter from the National Service Officer, American Gold Star Mothers, Incorporated, transmitting the organization's report and financial audit for the years ending June 30, 2004 and 2003, pursuant to 36 U.S.C. 1101(63) and 1103; to the Committee on the Judiciary.

11134. A letter from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustments [Docket No. 04-24] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11135. A letter from the Director, Regulatory Management Division, Department of Homeland Security, transmitting the Department's final rule — Adding Actuaries and Plant Pathologists to Appendix 1603.D.1 of the North American Free Trade Agreement [CIS No. 2068-00] (RIN: 1615-AA38) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11136. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 Annual Report of the National Institute of Justice (NIJ); to the Committee on the Judiciary.

11137. A letter from the Rules Administrator, Bureau of Prisons, Department of Justice, transmitting the Department's final rule — Comments on UNICOR Business Operations: Clarification of Address [BOP-1115-F] (RIN: 1120-AB15) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11138. A letter from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule — Executive Office for Immigration Review; Section 212(c) Relief for Aliens With Certain Criminal Convictions Before April 1, 1997 [EOIR No. 130F; AG Order No. 2734-2004] received October 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11139. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting As required by Section 417(b) of the USA Patriot Act of 2001 (Public Law 107-56), the third annual report on the status of the implementation of machine-readable passports (MRPs) in countries participating in the Visa Waiver Program (VWP); to the Committee on the Judiciary.

11140. A letter from the Corporate Agent, Legion of Valor of the United States of America, Inc., transmitting a copy of the Legion's annual audit as of April 30, 2004, pursuant to 36 U.S.C. 1101(28) and 1103; to the Committee on the Judiciary.

11141. A letter from the Commandant, U.S. Coast Guard, Department of Homeland Security, transmitting A report on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security, pursuant to 46 U.S.C. 70101 note Public Law 107–295, section 110(b); to the Committee on Transportation and Infrastructure.

11142. A letter from the Assistant Secretary, Bureau of Trade Analysis, Federal Maritime Commission, transmitting the Commission's final rule — Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984; Final Rule [Docket No. 03-15] (RIN: 3072-AC28) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11143. A letter from the Director, Judicial Conference of the United States, transmitting a letter informing of several actions involving the courthouse construction program taken by the Conference on September 21, 2004; to the Committee on Transportation and Infrastructure.

11144. A letter from the Deputy Chief Acquisition Officer, Director for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final

rule — Re-Issuance of NASA FAR Supplement Subcapters H and I (RIN: 2700-AC88) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

11145. A letter from the Deputy Chief Acquisition Officer, Director for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Government Property and Miscellaneous Editorial Changes (RIN: 2700-AD05) received October 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

11146. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Regulations; Government Contracting Programs (RIN: 3245-AF16) received July 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11147. A letter from the Office of Regulation Policy & Mgt., VA, Department of Veterans Affairs, transmitting the Department's final rule — Increase in Rates Payable Under the Survivors' and Dependents' Education Assistance Program (RIN: 2900-AL64) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11148. A letter from the Office of Regulation Policy & Mgt., VA, Department of Veterans Affairs, transmitting the Department's final rule — Veterans Education: Increased Allowances for the Educational Assistance Test Program (RIN: 2900-AL81) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11149. A letter from the Office of Regulation Policy & Mgt., VA, Department of Veterans Affairs, transmitting the Department's final rule — Increase in Rates Payable Under the Montgomery GI Bill — Selected Reserve (RIN: 2900-AL80) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11150. A letter from the Office of Regulation Policy & Mgt., VA, Department of Veterans Affairs, transmitting the Department's final rule — Standards for Collection, Compromise, Suspension, or Terminatin of Collection Effort, and Referral of Civil Claims for Money or Property; Regional Office Committees on Waivers and Compromises; Salary Offset Provisions; Delegations of Authority (RIN: 2900-AK10) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11151. A letter from the Office of Regulation Policy & Mgt., VA, Department of Veterans Affairs, transmitting the Department's final rule — Waivers (RIN: 2900-AK29) received October 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11152. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2004105) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11153. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Distributions Under the Pension Funding Equity Act of 2004 [Notice 2004-78] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11154. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Taxation of DISC Income to Shareholders (Rev. Rul. 2004-99) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11155. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Treatment as qualified dividend income from purposes of section 1(h)(11) of the Internal Revenue Code of distribution, inclusions, and other amounts from foreign corporations subject to certain anti-deferral regimes [Notice 2004-70] received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11156. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2004-77] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11157. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2005 Limitations Adjusted As Provided in Section 415(d), etc. [Notice 2004-72] received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11158. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-Sharing, and Stock Bonus Plans (Rev. Rul. 2004-104) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11159. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Payments Made by Reason of a Salary Reduction Agreement [TD 9159] (RIN: 1545-BD50) received November 15, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11160. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories. (Rev.Rul. 2004-101) received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11161. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Settlement Guidelines Intermediary Transaction Tax Shelters — received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11162. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue Paper All Industries Tax Shelter [Notice 2002-21] received October 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11163. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue All Industries S Corporation Tax Shelter [Notice 2004-30] received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11164. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2004-106) received November 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11165. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Appeals Settlement Guidelines Securities & Financial Services Industry Capitalization of Costs to Obtain Management Contracts — received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11166. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Rev. Proc. 2004-64) received November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11167. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Coordinated Issue All Industries IRC: 461(f) Contested Liabilities — November 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11168. A letter from the Commissioner, Social Security Administration, transmitting the Administration's report of continuing disability reviews for FY 2003, pursuant to Public Law 104–121, section 103(d)(2) (110 Stat. 850); to the Committee on Ways and Means.

11169. A letter from the Commissioner, Social Security Administration, transmitting a consolidated report of the Administration's processing of continuing disability reviews for FY 2003, pursuant to Public Law 104–121, section 103(d)(2) (110 Stat. 850); to the Committee on Ways and Means.

11170. A letter from the United States Trade Representative, transmitting consistent with section 2105(a)(1)(B) of the Trade Act of 2002, a description of the change to an existing law that would be required to bring the United States into compliance with the United States-Bahrain Free Trade Agreement; to the Committee on Ways and Means.

11171. A letter from the Secretary, Department of Energy, transmitting notification that the Department of Energy requires an additional 45 days to finalize and transmit the implementation plan for addressing the issues raised in the Defense Nuclear Facilities Safety Board's Recommendation 2004-1, ''Oversight of Complex, High-Hazard Nuclear Operations,'' pursuant to 42 U.S.C. 2286d(e); jointly to the Committees on Armed Services and Energy and Commerce.

11172. A letter from the Chairperson, National Council on Disability, transmitting a report, titled ''Consumer-Directed Health Care: How Well Does It Work?,'' pursuant to 29 U.S.C. 781(a)(8); jointly to the Committees on Education and the Workforce and Energy and Commerce.

11173. A letter from the Inspector General, Coalition Provisional Authority, transmitting the third quarterly report to Congress as required by Section 3001(i) of Title III of the 2004 Emergency Supplemental Appropriation for Defense and for the Reconstruction of Iraq and Afghanistan (Pub. L. 108-106), dated October 30, 2004; jointly to the Committees on International Relations and Appropriations.

11174. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Presidential Determination 2005-02, the President has exercised the authority provided to him and has issued the required determination to waive certain restrictions on the maintenance of a Palestine Liberation Organization (PLO) Office and on the receipt and expenditure of PLO funds for a period of six months, pursuant to Public Law 108–199, section 534(d); jointly to the Committees on International Relations and Appropriations.

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. POMBO: Committee on Resources. H.R. 1662. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; with amendments (Rept. 108–785). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 2933. A bill to amend the Endangered Species Act of 1973 to reform the process for designating critical habitat under that Act; with an amendment (Rept. 108–786). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 5104. 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 (Rept. 108–787). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 5134. A bill to require the prompt review by the Secretary of the Interior of the longstanding petitions for Federal recognition of certain Indian tribes, and for other purposes; with an amendment (Rept. 108–788). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 2801. A bill to establish a digital and wireless network technology program, and for other purposes, with an amendment (Rept. 108–789 Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 3283. A bill to improve recreational facilities and visitor opportunities on Federal recreational lands by reinvesting receipts from fair and consistent recreational fees and passes, and for other purposes; with an amendment (Rept. 108–790 Pt. 1). Order to be printed.

Mr. POMBO: Committee on Resources. H.R. 2440. A bill to improve the implementation of the Federal responsibility for the care and education of Indian people by improving the services and facilities of Federal health programs for Indians and encouraging maximum participation of Indians in such programs, and for other purposes; with an amendment (Rept. 108–791 Pt. 1). Order to be printed.

[November 20 (legislative day of November 19), 2004]

Mr. YOUNG of Florida: Committee of Conference. Conference report on H.R. 4818. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–792). Order to be printed.

TIME LIMITATION OF REFERRED BILLS

Pursuant to clause 2 of rule XII the following actions were taken by the Speaker:

H.R. 180. Referral to the Committee on Rules extended for a period ending not later than November 22, 2004.

H.R. 2440. Referral to the Committees on Energy and Commerce and Ways and Means extended for a period ending not later than November 22, 2004.

H.R. 2801. Referral to the Committee on Education and the Workforce extended for a period ending not later than November 22, 2004.

H.R. 2971. Referral to the Committees on Financial Services, Energy and Commerce, and the Judiciary for a period ending not later than November 22, 2004.

H.R. 3143. Referral to the Committees on Financial Services and International Relations extended for a period ending not later than November 22, 2004.

H.R. 3283. Referral to the Committee on Agriculture extended for a period ending not later than November 22, 2004.

H.R. 3358. Referral to the Committee on the Budget extended for a period ending not later than November 22, 2004.

H.R. 3551. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than November 22, 2004.

H.R. 3800. Referral to the Committee on the Budget extended for a period ending not later than November 22, 2004.

H.R. 3925. Referral to the Committee on the Budget extended for a period ending not later than November 22, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGLISH (for himself and Mrs. WILSON of New Mexico):

H.R. 5393. A bill to amend title XVIII of the Social Security Act to provide incentives linking quality to payment for skilled nursing facilities and to establish a Long-Term Care Financing Commission; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Wisconsin (for himself and Mr. MATHESON):

H.R. 5394. A bill to amend the Internal Revenue Code of 1986 to modify the taxation of arrow components; to the Committee on Ways and Means.

By Mr. THOMAS:

H.R. 5395. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Ways and Means.

By Mr. ACEVEDO-VILA:

H.R. 5396. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for a portion of any dividend received by a domestic corporation from a qualified foreign corporation; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 5397. A bill to improve the retirement security of American families; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 5398. A bill to amend the Internal Revenue Code of 1986 to improve the retirement security of American families; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 5399. A bill to provide for the disposition of the Federal property located in Anne Arundel County, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hill juvenile detention facility; to the Committee on Government Reform.

By Mr. CARDIN:

H.R. 5400. A bill to provide for reimbursement of enrollees in the Medicare PPO Demonstration Project for expenses inappropriately incurred in being provided coverage through out-of-network providers; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS:

H.R. 5401. A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture; to the Committee on Ways and Means.

By Mr. HONDA (for himself, Mr. MORAN of Virginia, Ms. LEE, Mr. CROWLEY, Mr. EVANS, Ms. LINDA T. SANCHEZ of California, Mr. GEORGE MILLER of California, Ms. BORDALLO, Mr. MEEKS of New York, Mr. LAMPSON, Mr. GREEN of Texas, Mr. SCHIFF, Mr. CAPUANO, Mr. GRIJALVA, Ms. ESHOO, Ms. SCHAKOWSKY, and Ms. LOFGREN):

H.R. 5402. A bill to provide for immigration relief in the case of certain immigrants who are innocent victims of immigration fraud; to the Committee on the Judiciary.

By Ms. KAPTUR:

H.R. 5403. A bill to amend title XVIII of the Social Security Act to improve the quality of care in skilled nursing facilities under the Medicare Program through development of quality measures and changes in reimbursement; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH:

H.R. 5404. A bill to prohibit price gouging during a shortage of a covered vaccine; to the Committee on Energy and Commerce.

By Mr. LARSON of Connecticut:

H.R. 5405. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Commerce.

By Mr. LARSON of Connecticut:

H.R. 5406. A bill to ensure a balanced survey of taxpayers in any system of precertification for the earned income tax credit; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut:

H.R. 5407. A bill to require the Secretary of Energy to prepare a strategic plan to ensure that the United States is energy self-sufficient by the year 2015; to the Committee on Energy and Commerce, and in addition to the Committee on 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. LARSON of Connecticut:

H.R. 5408. A bill to provide emergency relief to small businesses affected by significant increases in the prices of electricity, heating oil, natural gas, propane, and kerosene, and for other purposes; to the Committee on Small Business, 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 Mrs. LOWEY (for herself, Mr. VAN HOLLEN, Mr. BISHOP of New York, and Mr. ISRAEL):

H.R. 5409. A bill to amend the Public Health Service Act to address the shortage of influenza vaccine, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MALONEY (for herself, Mr. JACKSON of Illinois, Mr. ENGEL, and Mr. MARKEY):

H.R. 5410. A bill to amend the Expedited Funds Availability Act to redress imbalances between the faster withdrawals permitted under the Check 21 Act and the slower rates for crediting deposits, and for other purposes; to the Committee on Financial Services.

By Mr. MARKEY:

H.R. 5411. A bill to amend the the Atomic Energy Act of 1954 to restrict exports of nuclear related materials and equipment; to the Committee on International Relations.

By Mr. ORTIZ:

H.R. 5412. A bill to correct maps depicting Unit T-10 of the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. PASCRELL:

H.R. 5413. A bill to amend the Immigration and Nationality Act to provide greater protections to domestic and foreign workers under the H-1B nonimmigrant worker program; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 5414. A bill to amend the Internal Revenue Code of 1986 to deny the foreign tax credit and the benefits of deferral to companies doing business in Sudan until the Government of Sudan takes demonstrable steps to end genocide in Sudan; to the Committee on Ways and Means.

By Mr. REYNOLDS (for himself, Mr. ALLEN, Mr. PICKERING, and Mr. RAMSTAD):

H.R. 5415. A bill to amend title XVIII of the Social Security Act to provide payments to Medicare ambulance suppliers of the full cost or furnishing such services, to provide payments to rural ambulance providers and suppliers to account for the cost of serving areas with low population density, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LORETTA SANCHEZ of California:

H.R. 5416. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to define and punish stalking by persons subject to that chapter; to the Committee on Armed Services.

By Mr. SHERMAN:

H.R. 5417. A bill to amend title 23, United States Code, relating to high occupancy vehicle lanes; to the Committee on Transportation and Infrastructure.

By Mr. TANCREDO:

H.R. 5418. A bill to authorize the Secretary of the Interior to enter into new and renewal contracts with the City of Aurora, Colorado, or an enterprise of the City, for the use of excess capacity water in the Fryingpan-Arkansas Project; to the Committee on Resources.

By Mr. YOUNG of Florida:

H.J. Res. 114. A joint resolution making further continuing appropriations for the fiscal year 2005, and for other purposes; to the Committee on Appropriations.

By Mr. BOEHNER (for himself and Mr. CASTLE):

H. Con. Res. 524. Concurrent resolution directing the Clerk of the House of Representatives to make certain corrections to the enrollment of H.R. 1350; considered and agreed to.

By Mr. ISRAEL:

H. Con. Res. 525. Concurrent resolution commending those individuals that have donated prepaid telephone cards to members of the United States Armed Forces participating in Operation Enduring Freedom and Operation Iraqi Freedom; to the Committee on Armed Services.

By Mr. KING of New York (for himself and Mr. JACKSON of Illinois):

H. Con. Res. 526. Concurrent resolution expressing the sense of Congress that the President should grant a posthumous pardon to John Arthur ''Jack'' Johnson for the 1913 racially motivated conviction of Johnson, which diminished his athletic, cultural, and historic significance, and tarnished his reputation; to the Committee on the Judiciary.

By Mr. RUSH (for himself and Mr. RANGEL):

H. Con. Res. 527. Concurrent resolution expressing the sense of Congress with respect to the murder of Emmett Till; to the Committee on the Judiciary.

By Mr. FARR:

H. Res. 863. A resolution recognizing the importance of local capacity building within developing countries to create sustainable, long-term international development; to the Committee on International Relations.

By Mr. CAMP (for himself, Mr. OBERSTAR, Mr. HERGER, Mr. DELAHUNT, Mr. GREENWOOD, Mr. CARDOZA, Mr. PAUL, Mr. EHLERS, Mr. LYNCH, Mr. TERRY, Mr. FILNER, Mrs. MCCARTHY of New York, Mr. SNYDER, Mr. ROGERS of Michigan, Mr. GOODLATTE, Ms. WATSON, Mr. BOEHLERT, Mr. TIBERI, Mr. TIAHRT, Mr. RANGEL, Mr. CARDIN, Ms. PRYCE of Ohio, and Mr. KANJORSKI):

H. Res. 864. A resolution recognizing and supporting the goals and ideals of National Adoption Month; to the Committee on Government Reform.

By Mr. QUINN:

H. Res. 865. A resolution expressing the sense of the House of Representatives that there should be equal pay for substantially equal work performed by public sector and private sector employees within each State and locality in which such employees work; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

461. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 848 memorializing the Congress of the United States to award Sergeant Harvey Possinger, 35th Infantry Regiment, 25th Infantry Division, United States Army, the Medal of Honor for his valor at Belete Pass in Luzon, Philippine Islands, on March 8, 1945; to the Committee on Armed Services.

462. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 87 memorializing the Congress of the United States to pass the Employee Free Choice Act, S. 1925 and H.R. 3619; to the Committee on Education and the Workforce.

463. Also, a memorial of the Senate of the Commonwealth of The Mariana Islands, relative to Senate Resolution No. 14-26, extending congratulations and appreciation to Juan S. Reyes, Chairman of the Republican Pary of the NMI for his professional dedication and untiring efforts to secure membership for the NMI Republican Pary at the national level and to encourage other local political parties to seek similar national recognition; to the Committee on Resources.

464. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 320 memorializing the Congress of the United States and the United States Department of Transportation to exempt local transporters of liquid petroleum from federal regulations that require 10 hours off duty for every 14 hours on duty; to the Committee on Transportation and Infrastructure.

465. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 74 memorializing the President and the Congress to take legislative action to allow single-occupant hybrid electric vehicles that achieve a fuel economy highway rating of at least 45 miles per gallon, and conform to any additional emissions category of the federal Environmental Protection Agency or the California Air Resources Board, or meet any other requirements identified by the responsible agency, to travel in California's High Occupancy Vehicle (HOV) lanes; to the Committee on Transportation and Infrastructure.

466. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 86 memorializing the President and Congress of the United States to enact and fully fund the proposed budget for space exploration for the federal 2005 fiscal year to enable the United States, and California, in particular, to remain a leader in the exploration and development of space; to the Committee on Science.

467. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 71 memorializing the President and Congress of the United States to amend Title 38 of the United States Code to provide a guaranteed level of funding for veterans health care and to require that medical benefits package eligibility be restored for veterans in Priority Group 8; and the Department of Veterans Affairs to carry out its duties to seek out eligible veterans and their family members, and to provide them with information and assistance to ensure that they apply for all available VA benefits and services; to the Committee on Veterans' Affairs.

468. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 69 memorializing the Congress of the United States to support the passage of H.R. 3242, the Speciality Crop Competitiveness Act of 2003; jointly to the Committees on Agriculture and Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 814: Mr. NEAL of Massachusetts and Mr. CROWLEY.

H.R. 846: Mrs. DAVIS of California.

H.R. 1268: Mr. OLVER.

H.R. 1563: Ms. KILPATRICK and Ms. CORRINE BROWN of Florida.

H.R. 1567: Mr. ALEXANDER.

H.R. 1746: Mr. HASTINGS of Florida.

H.R. 1818: Mr. ANDREWS.

H.R. 2379: Mr. CHANDLER.

H.R. 2387: Mr. ANDREWS and Mr. LYNCH.

H.R. 2394: Mr. DAVIS of Alabama.

H.R. 2464: Ms. BERKLEY.

H.R. 2509: Ms. HARRIS.

H.R. 2671: Mr. PETERSON of Minnesota.

H.R. 3049: Mr. DAVIS of Alabama.

H.R. 3127: Mr. DAVIS of Illinois and Mr. PICKERING.

H.R. 3194: Mr. ANDREWS.

H.R. 3438: Mr. KIRK, Mr. BACA, Mr. FILNER, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS of Florida.

H.R. 3455: Mr. HASTINGS of Florida.

H.R. 3539: Mr. CONYERS and Mr. DAVIS of Illinois.

H.R. 3634: Mr. HASTINGS of Florida.

H.R. 3750: Mr. HONDA.

H.R. 3803: Mr. HASTINGS of Florida.

H.R. 3887: Mr. MICHAUD.

H.R. 4026: Mr. RUSH.

H.R. 4169: Mr. RYUN of Kansas and Mr. ISRAEL.

H.R. 4249: Mr. ABERCROMBIE and Mr. PORTER.
H.R. 4543: Mr. KING of Iowa.
H.R. 4575: Mr. ANDREWS.
H.R. 4605: Mr. HONDA.
H.R. 4679: Mr. MARKEY.
H.R. 4703: Mr. PAYNE.
H.R. 4706: Mr. WEINER, Mr. EVANS, Mr. ENGEL, Mr. CUMMINGS, Ms. MCCARTHY of Missouri, Mr. RUSH, and Mr. BACA.
H.R. 4779: Mr. DAVIS of Alabama.
H.R. 4902: Mrs. WILSON of New Mexico and Mr. ALLEN.
H.R. 4927: Mr. BROWN of South Carolina and Mr. SCHIFF.
H.R. 4936: Mr. OLVER and Mr. UDALL of Colorado.
H.R. 4967: Mr. HASTINGS of Florida.
H.R. 5035: Mr. GRIJALVA.
H.R. 5055: Mr. LYNCH, Mr. MORAN of Kansas, Mr. TOWNS, Mr. MCNULTY, and Mr. HASTINGS of Florida.
H.R. 5063: Mr. UPTON.
H.R. 5069: Mr. THOMPSON of Mississippi.
H.R. 5073: Ms. DEGETTE, Ms. SCHAKOWSKY, Mr. OWENS, Ms. SLAUGHTER, Ms. WOOLSEY, and Mr. NADLER.
H.R. 5119: Mr. PASTOR.
H.R. 5124: Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 5144: Mr. TOM DAVIS of Virginia.
H.R. 5197: Mr. LAHOOD, Mr. HINCHEY, Mr. OSBORNE, Mr. MORAN of Kansas, and Mr. GRIJALVA.
H.R. 5206: Mr. KELLER.
H.R. 5211: Mr. POMEROY, Mr. THOMPSON of Mississippi, and Mr. UDALL of Colorado.
H.R. 5244: Ms. SOLIS, Mr. CASE, Mr. WYNN, Ms. WATERS, and Mr. SCHIFF.
H.R. 5273: Mr. CALVERT.
H.R. 5278: Mr. FILNER.
H.R. 5315: Mr. LANTOS.
H.R. 5344: Mr. GRIJALVA.
H.R. 5365: Mr. BEAUPREZ.
H.J. Res. 103: Mr. WYNN and Mr. WEINER.
H. Con. Res. 30: Mr. CLAY.
H. Con. Res. 87: Mr. MENENDEZ.
H. Con. Res. 99: Mr. WYNN.
H. Con. Res. 175: Mr. MENENDEZ.
H. Con. Res. 481: Mr. MCNULTY.
H. Con. Res. 512: Mr. ROHRABACHER, Mrs. KELLY, Mr. RYAN of Ohio, Mr. TANCREDO, Mr. SOUDER, Mr. MCNULTY, Mr. ETHERIDGE, Mr. WU, Mr. SENSENBRENNER, and Mr. COX.
H. Con. Res. 522: Mr. PLATTS, Mr. ROGERS of Alabama, Mr. HAYES, Mr. ETHERIDGE, Mr. RYUN of Kansas, Mr. ISSA, Mr. OTTER, Mr. HUNTER, Mr. TAYLOR of Mississippi, Mr. TERRY, Mr. WHITFIELD, Mr. STEARNS, Mr. FOSSELLA, Mr. FORBES, Mr. MILLER of Florida, Mr. LEWIS of California, Mr. MURTHA, Mr. REYES, and Mr. PICKERING.
H. Res. 862: Mr. LANTOS and Mr. BERMAN.

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. 1078: Mr. BISHOP of Utah.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

125. The SPEAKER presented a petition of the City Council of Providence, Rhode Island, relative to Resolution No. 457 petitioning Senators Reed and Chafee and Representatives Langevin and Kennedy to cosponsor and support the Arthritis Prevention, Control and Cure Act of 2004; to the Committee on Energy and Commerce.

126. Also, a petition of the Legislature of Cattaraugus County, New York, relative to Act No. 460-2004 supporting House Resolution 4790 authorizing importation of prescription drugs from Canada and certain other countries; to the Committee on Energy and Commerce.

127. Also, a petition of the City Council of Atlanta, Georgia, relative to Resolution No. 04-R-1723 supporting the denouncement of atrocities committed by the Janajaweed and urging the Sudanese government to cut its ties to the Militia responsible and demand that they disarm immediately; and for other purposes; to the Committee on International Relations.

128. Also, a petition of the Mayor and City Council of North Miami Beach, Florida, relative to Resolution No. R2004-66 petitioning Congress to renew the ban on assualt weapons; to the Committee on the Judiciary.

129. Also, a petition of the Council of the City and County of Honolulu, Hawaii, relative to Resoultion No. 04-267 petitioning the President and Congress of the United States to enact legislation to restore veterans' benefits to Filipino veterans of World War II; to the Committee on Veterans' Affairs.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

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

Let us pray.

Lord, today, teach us the wisdom of humility. Remind us that all of our abilities come from You. Help us to see that we need one another and that no person is sufficient unto himself or herself.

May we follow Your example of sacrificial service to humanity, as we strive to commit ourselves to causes that will continue beyond our lifetime. Teach us also the power of silence that gives weight to our words when it is time to speak. Empower us with the lowliness of kindness that people will see Your image in us.

Bless our Senators. Make them instruments of Your will on Earth. Place Your truth in their minds, Your love in their hearts, and Your compassion on their lips. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

NOTICE

If the 108th Congress, 2d Session, adjourns sine die on or before November 20, 2004, a final issue of the Congressional Record for the 108th Congress, 2d Session, will be published on Monday, December 13, 2004, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 10. The final issue will be dated Monday, December 13, 2004, and will be delivered on Tuesday, December 14, 2004.

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

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

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

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

By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

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

Printed on recycled paper.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 19, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN CORNYN, a Senator from the State of Texas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CORNYN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have 30 minutes of debate prior to the cloture vote on the miscellaneous trade and technical corrections conference report. Therefore, I expect cloture to occur shortly after 10 a.m. I expect cloture to be invoked, and if it is invoked I hope we can complete the conference report in short order.

I will talk to the Democratic leadership after the vote to see what time may be necessary during that postcloture period.

I also expect the appropriations conference report, the so-called omnibus package, will be filed today. If so, I hope we will be able to act on that measure at some point today or this evening. I am optimistic that we can, in fact, finish our work sometime today and adjourn this Congress.

While we are waiting for the omnibus conference reports, we will continue to try to process other cleared legislative items. The IDEA, the Individuals with Disabilities Education Act conference report, is expected to arrive today from the House, and we will consider that legislation before we adjourn this year.

Finally, we have a very large number of nominations that are available on the Executive Calendar. It would be irresponsible to leave without acting on at least those nominations which we know are noncontroversial. We must move toward resolution of these nominations over the course of the day. We need to continue to pursue a way of clearing that Executive Calendar.

I will close so we can move on for the vote, but I have to add that I personally had a remarkable day yesterday. I had the opportunity to visit the Clinton Library for what was an exceptional and remarkable day in terms of having our former Presidents together in a wonderful bipartisan spirit. It was a rainy day so we all sat in 2 or 3 hours of the downpour. It really was an inspiration to see what has made and continues to make this country so great. It is a wonderful library. I have three boys and look forward to going back and taking them through a magnificent structure. It really does capture President Clinton's upbeat, optimistic enthusiasm, his whole view of life. A number of the Senators attended. I wanted to mention it because it was quite remarkable for me, personally.

RESERVATION OF LEADER TIME

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

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 1047, which the clerk will report.

The legislative clerk read as follows:

Conference report accompanying the bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes divided in the following form: Senator GRASSLEY in control of 10 minutes; the Senator from Montana, Mr. BAUCUS, in control of 10 minutes; the Senator from Wisconsin, Mr. FEINGOLD, for up to 8 minutes; and the Senator from Wisconsin, Mr. KOHL, for up to 2 minutes.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I don't see Senator GRASSLEY, the chairman of the committee, in the Chamber. I expect him momentarily. In the meantime, I will say a few words with respect to the pending legislation.

I am pleased, frankly, that in the final days of the 108th Congress, the Senate is set to pass at long last the miscellaneous tariff bill. This bill reduces or eliminates tariffs on literally hundreds of products that U.S. companies use to make products in America. It is a collection of many bills too small to be considered independently, and, traditionally, Congress collects these inexpensive and noncontroversial bills together into one big omnibus bill which the Senate then passes by unanimous consent. That is our tradition in the Senate.

Unfortunately, that did not happen with this bill this time. For the first time in the history of the process, the House insisted we go to conference on the bill. Frankly, that is unfortunate. In the aggregate, the provisions of this bill represent a significant cost savings for U.S. manufacturers simply struggling to compete. We owe it to them to get the process back on track in the next Congress. I hope we can do that, and I promise to work very hard toward that end.

I wish to highlight two provisions in this bill in particular that will help my State of Montana remain competitive. One is a provision that eliminates the tariff on specialized components used by a Bozeman-based boot manufacturer called Schnee Shoes. This is a top-of-the-line company. They make the best boots for hunting. If a hunter goes out pheasant hunting, duck hunting, you buy Schnee. They are terrific. They produce first-class products. Eliminating the tariff will save them tens of thousands of dollars a year and allow them to keep good-paying jobs in Bozeman, MT.

The other provision improves the competitiveness of U.S. wool. We produce a lot of wool in Montana—$2 million a year. As other commodities and textiles, wool has faced an increasingly difficult marketplace over the past several years.

In response, U.S. wool growers adopted a positive approach to embrace world markets; that is, setting up a wool trust fund. Through the wool trust fund, first established in 2000, U.S. exports of wool have risen sixfold as a share of domestic production. This successful program of the wool trust fund is, unfortunately, scheduled to expire next year. But this bill renews the wool trust fund through the year 2007 and allows the United States and Montana wool growers to continue to compete.

I also want to speak about one other provision of this bill, normal trade relations with Laos, that I know has generated some controversy. I support granting normal trade relations to Laos. In the absence of normal trade relations, Laos is subject to average tariffs of 45 percent, with peaks of 60 to 90 percent for important Laotian products such as T-shirts and bamboo chairs.

In contrast, most U.S. trading partners, including Laotian competitors Burma, China, Cambodia, and Vietnam, face average tariffs of only 2.4 percent compared, again, with Laos of 45 percent.

Now, I know some of my colleagues oppose granting normal trade relations to Laos. They believe Laos must work harder on improving its human rights record before receiving normal trade relations. But normal trade relations, I must emphasize, is not a special privilege the United States grants only to certain countries, and it does not signify approval of a country's policies. It is not a free trade agreement or a preference program. Rather, it is the baseline economic relationship the United States has with virtually every other country in the world—the baseline.

In fact, there are only three countries on Earth that do not have normal trade relations: Cuba, North Korea, and Laos, and Laos is the only one of the three that has full, normal diplomatic relations with the United States.

Laos has worked with the United States closely in accounting for U.S. prisoners of war and missing in action in Laos during the Vietnam war, supported U.S. counterterrorism efforts in Southeast Asia after 9/11, and has cooperated in a long-term bilateral counternarcotics program.

Granting normal trade relations to Laos could have a dramatic effect on improving the dismal economic conditions in that country. Laos has the

lowest life expectancy in Southeast Asia, and the highest fertility rate. It also has the highest adult illiteracy rate, particularly among women.

Cambodia, on the other hand, has created more than 200,000 jobs since the United States granted that country normal trade relations in 1996. My hope is that normal trade relations for Laos will have a similar effect. Granting normal trade relations to Laos will also create opportunities to open the society, improve human rights, improve religious freedom, and improve the rule of law.

That is why my good friend, Senator GRASSLEY, and I have worked hard to pass normal trade relations for Laos, and why it is right to include it in this bill. I think it is time for us to remove an awkward legacy of the Vietnam war and grant normal trade relations to Laos.

This bill includes a long list of provisions that will help American competitiveness. We should bring debate on this bill to a close and pass this constructive measure. I urge my colleagues, therefore, to vote for cloture.

Mr. President, before I turn the floor over to my good friend, the chairman of our committee, I would like to thank several terrific staff members. I thank Everett Eissenstat and Zach Paulsen of the Republican staff who worked very hard to get this miscellaneous tariffs bill passed. Also, from the majority leader's staff, I thank Rohit Kumar and Andy Olson, two extremely able and very helpful people, who helped get these provisions into this bill. I also thank, on my staff, Sara Andrews, who really led the charge. She did a great job, assisted by John Gilliland, who is equally competent. That is an understatement. Both of them are just aces, and I am very proud of them. I thank them for their assistance.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in strong support of the conference report to H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004, commonly called the miscellaneous tariff bill.

This legislation has traveled a long and difficult road to get to the floor today. In fact, the journey began over 2½ years ago when Senator BAUCUS chaired the Finance Committee. The Senate historically passes a miscellaneous tariff bill at the end of every Congress. The bill under consideration today was supposed to pass at the end of the 107th Congress. However, it was left as unfinished business for the current Congress. Upon resuming the chairmanship of the Finance Committee, my intention was to complete unfinished business from the 107th Congress as quickly as possible. To that end, we passed the bill out of Committee by voice vote on February 27, 2003.

We hoped that early passage of this bill would pave the way for consideration of another miscellaneous tariff bill in the 108th Congress. But that was not meant to be. Throughout the remainder of the Congress we faced significant delays and stall tactics. In March 2004, over a year after the bill was reported out of the Finance Committee, we reached agreement and passed the bill by unanimous consent. But quick conference consideration was not meant to be. We were forced to wait another 6 months before we could go to conference with the House. The conference committee quickly reached an agreement in October and the House passed the conference report shortly thereafter. However, Senate action was further delayed until today. Happily, it looks like the bill is finally near the end of its journey as we appear to be on the verge of passing this bill as one of the last orders of business for the 108th.

At this point, it might be interesting to reflect on what the Senate Finance Committee has been able to accomplish on trade during the time it took to pass this bill. During the first session of the 108th Congress, we were able to complete work on the Clean Diamond Trade Act, legislation designed to help thwart trade in conflict diamonds. We also implemented two free trade agreements with Chile and Singapore. In addition, we enacted the Burmese Freedom and Democracy Act, which put in place an import ban on products from Burma in an effort to help stop human rights abuses and the repression of democracy in that country.

During the second session of the 108th Congress, we enacted the Africa Growth and Opportunity Acceleration Act, which continues trade preferences for some of the poorest nations in sub-Saharan Africa. We also implemented two trade agreements with Australia and Morocco and brought the United States into compliance with an adverse WTO ruling in the FSC/ETI case through passage of the American Jobs Creation Act of 2004. There is no doubt that Senate passage of the conference report on the MTB will be a nice capstone to what has already been a highly successful Congress on trade.

This package contains many trade provisions, primarily duty suspensions, reductions and extensions, for products that are not produced domestically. This bill supports American factories and workers by allowing manufacturers to save money when they import these products.

Each of these provisions went through an extensive vetting process including a public notice and comment period to ensure that they did not compete with domestic manufacturers. The bill also contains a number of liquidations or reliquidations for certain entries.

The general rule for inclusion here is that the product entered the country under an incorrect duty rate due to Customs or other administrative error. These provisions allow those entries to enter the country at the correct duty rate.

There are several some other very important provisions in this bill. The bill grants the President the authority to provide permanent normal trade relations, PNTR, for Armenia. Armenia recently joined the World Trade Organization. But, in order to reap the benefits of their accession, the United States needs to extend PNTR to Armenia. This legislation provides the President with the authority to grant that extension. I also hope we will be able to consider similar treatment for Azerbaijan in the very near future.

The bill also extends normal trade relations to Laos. Last year the Bush administration signed a comprehensive bilateral trade agreement with Laos, an agreement that was negotiated during the Clinton years. The agreement will promote U.S. interests by protecting U.S. intellectual property rights and opening the Laotian market to U.S. goods and services. It is a good agreement. But to enable the United States to benefit from it, we must extend normal trade relations to Laos. Doing so will also benefit the Laotian people. Laos is one of the poorest nations in Asia. Yet exports from Laos are subject to some of the highest tariffs when they enter the United States. This agreement will help alleviate poverty, help bring Laos out of the Vietnam War era, and further integrate Laos into the global marketplace.

We also included in this bill a provision that extends preferences under the Generalized System of Preferences, GSP, to allow duty-free treatment for hand-knotted and hand-woven carpets. This provision is designed primarily to help the citizens of Afghanistan and Pakistan. I believe that allowing these products to be considered as eligible articles under GSP will help beneficiary countries that have joined the United States in the fight against global terrorism.

Further, H.R. 1047 corrects a mistake in the Trade Act of 2002 that inadvertently and temporarily raised duties on Andean originating handbags, luggage, flat goods, work gloves and leather wearing apparel under the Andean Trade and Preferences and Drug Eradication Act, ATPDEA. This provision retroactively reinstates the reduced duty treatment for eligible products that entered the U.S. from August 6, 2002, the date ATPDEA was signed, and the time in which these products met the import sensitivity test, several months later. It provides for continued duty-free treatment for these eligible products, which was the intent of the trade act.

I am also pleased that the bill includes the Emergency Protection for Iraqi Cultural Antiquities Act. I introduced the EPIC Antiquities Act to authorize the President to continue emergency import restrictions on the archaeological and ethnological materials of Iraq. The purpose of this bill is simple—to close a legal loophole which could allow looted Iraqi antiquities to be brought into the United States.

If Congress does not act to ensure the continuing means for banning trade in antiquities that may have been stolen, the door could be opened to imports of looted Iraqi antiquities into the United States. Already the press has reported allegations that European auction houses have traded in looted Iraqi antiquities. The last thing that we in Congress want to do is to fail to act to prevent trade in looted Iraqi artifacts here in the United States.

Other important provisions in the bill include modifications to the cellar treatment of natural wine and repeal of the 1916 act. Repeal of the 1916 act will bring the United States into compliance with its WTO obligations. We have also improved and extended the wool trust fund and added a provision that simplifies some processing U.S. Customs processing procedures, thereby resulting in increased efficiency and productivity for both the government and the trade community.

I also want to point out that the provisions I have covered are not the only important provisions contained in this bill. This bill makes a number of other technical yet meaningful changes to our trade laws.

I am very pleased that we are going to be able to pass this bill today. We would not be here today if not for the bipartisan efforts of a number of the Finance Committee staff, some of whom have long left the Senate. First, I want to thank Andy Harig who shepherded this bill through its first stages of development under Chairman BAUCUS' leadership during the 107th Congress. I also want to recognize Carrie Clark Phillips, for immersing herself in the tremendous complexities of this bill and her dedication to seeing the task done upon my resumption as chairman of the committee. Zach Paulsen and Sara Andrews also deserve recognition for their ability to pick up where Carrie and Andy left off and their hard work in bringing this bill to a successful conclusion. I also appreciate the hard work of Rohit Kumar, who was instrumental in helping us move this bill forward. Finally, Liese Wright, with the Washington International Business Council, has done an outstanding job bringing together, and holding intact, the Ad Hoc Coalition on Tariffs. In good times and bad, Liese remained ever hopeful and committed to getting this bill done. Her hard work and optimism is appreciated.

Let me also thank the rest of the Finance Committee international trade staff for their work not just on this bill, but for all we have been able to accomplish this Congress. On Senator BAUCUS's staff I would like to recognize Russ Sullivan and Bill Dauster, who provided the guidance necessary to help the Committee accomplish its goals, and Tim Punke, Brian Pomper, John Gilliland and Shara Aranoff for their technical expertise and policy advice which was so crucial to our success. On my staff, I would like to thank Kolan Davis, Everett Eissenstat, Stephen Schaefer, David Johanson, Tiffany Atwell McCullen, and detailees Nova Daly and Dan Shepherdson. Their knowledge, hard work, and ability to pull together as a team, enabled me to accomplish a number of important trade priorities in this Congress. And for that, I am grateful.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to express my strong opposition to efforts to push through a provision in this bill normalizing trade relations with Laos.

Let me first say I thoroughly enjoy my work with both managers of the bill. Senator BAUCUS and I agree on so many issues. We have had our disagreements on trade issues, but I do respect his views and arguments. Of course, I very much respect the Senator from Iowa. I have the pleasure of serving with him on a number of committees. I respectfully disagree with him on this particular aspect of the bill having to do with Laos.

I am deeply disappointed that a decision was made to insert this provision into the Miscellaneous Trade and Technical Corrections Act of 2004 conference report. The Senator from Montana suggested that those of us who are opposed to this provision simply believe that Laos could do better. I am afraid it is a lot more serious than Laos needing to do a little bit better on human rights.

First, let there be no misunderstanding that this bill would sail through the Senate if this provision on Laos was not included. However, I cannot support upgrading Laos's trading status as long as the human rights situation in that country remains so disturbing. I am not prepared to simply let this bill pass without at least some debate on this important matter.

This is the wrong time to reward the Government of Laos with normal trade relations. Reports emerging from Laos continue to demonstrate that human right conditions in Laos remain appalling. It is not a question of simply doing a little better, it is appalling. Despite the Lao Government's denials, human rights organizations, the U.S. Government, and my constituents and various news agencies have all documented the Lao Government's blatant disregard for human rights.

I have tried to closely monitor the human rights situation in Laos as a member of the Senate Foreign Relations Committee's Subcommittee on East Asia and Pacific Affairs, and also as a Senator representing over 35,000 Hmong people in Wisconsin. Many of these people fled Laos following the end of the Vietnam war. Quite a number of the Hmong provided courageous assistance to the CIA during the Vietnam war, at great risk to themselves and their families. They helped rescue American pilots and hold off North Vietnamese troops.

Especially at a time like this, I think we can all agree that we owe them a debt of gratitude, and we owe them better than simply rewarding normal trade relations to a government that has badly mistreated them.

The Senator from Montana indicated this provision was an indication that it is time to put the legacy of the Vietnam war behind us. When it comes to the situation on the ground in Laos, the tragic legacy of the Vietnam war is very much alive for families of people who helped us during that very difficult conflict. So the legacy of Vietnam is not over when it comes to the treatment of the Lao Hmong people in Laos.

I am regularly contacted by constituents concerned about their friends and families in Laos. Again and again, my office encounters reports of atrocities committed against the Hmong in Laos and other deplorable practices by the Lao Government. These reports, combined with the Lao Government's absolute refusal to investigate allegations or to permit independent monitoring, lead me to believe it is not in our country's national interest to adopt normal trade relations with the Lao Government.

The United States has an obligation to the Hmong people, and I strongly believe that we have a moral interest in reducing human suffering and protecting human rights abroad. We cannot ignore these allegations of atrocities in Laos. Granting NTR is not appropriate at this time. In fact, I do recognize, as the Senator from Montana pointed out, that there are only a few countries that do not have NTR status. But that does not mean Laos deserves it any more than North Korea or perhaps Cuba. In fact, I have not supported the granting of NTR to some countries that have it now, such as China. In fact, I think the normal trade agreement with China is the biggest reason the State of Wisconsin has lost up to 80,000 manufacturing jobs since the middle of the year 2000.

You can call NTR normal, but, in fact, that was a semantic change from MFN, most-favored-nation treatment. It was a semantic change to try to make it easier to get these deals through. The fact is, normal trade relations with another country is not always right. Sometimes it is in our own interest in terms of protecting our jobs, and sometimes because of the outrageous human rights records that some countries have, and Laos, in my view, is certainly one of those countries.

I know many of my colleagues have provisions in this bill they want passed, and I want the body to know, Mr. President, that I have repeatedly asked that we simply strip out this one contentious provision and pass the rest of the bill, and I am prepared to do that again. I heard the resuscitation of some of the other meritorious aspects of this bill, and I respect that. I am not sure I agree with every piece of the bill, but I do recognize much of it is good. My goal here is not to kill the

whole bill. I simply want this item removed.

At some point, this body has to come to grips with the fact that we tend to shove major policy decisions into larger bills without any real debate and discussion and without the American people having access to what their representatives are doing, thinking, or saying about some of these items. Somehow this has to change.

I also realize the 108th Congress is drawing to a close, and many of us are already looking to head home to our families and constituents. But I cannot, in good conscience, stand by and say nothing against a provision that conflicts so fundamentally with our country's dedication to human rights, to democracy, and to fundamental decency.

I urge my colleagues to join me in opposing cloture. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I am deeply troubled by the series of events which have brought us here today. The miscellaneous tariff bill, a relatively noncontroversial bill that has been making its way through the Congress for more than a year now, which is full of worthy noncontroversial provisions, has become the vehicle to pass a bill that is controversial, to say the least.

At the eleventh hour, behind closed doors, the conferees on this bill decided to tack on a bill to grant normal trade relations status to the Communist Laos People's Democratic Republic, one of the few remaining Communist states on the Earth.

For many years, I have worked to shed light on the serious allegations of human rights violations in Laos, many involving the status of the Hmong ethnic minority. By attaching Laos NTR to this bill without any opportunity to debate it and to consider it on its merits, we are missing an important opportunity to hold the Lao Government accountable. We are also missing an important opportunity to press the Lao Government to allow credible international observers into Laos and into the remote jungles where the Hmong ethnic minority live.

We should not be proceeding to this bill in its current form. The Finance Committee could have easily stripped the Laos NTR provisions from the conference report and passed a clean version of the miscellaneous tariff bill. Then we could have had a real debate on Laos NTR at a more appropriate time.

I will have more to say on this matter after the cloture vote. I urge my colleagues to vote against cloture so that Laos NTR can be considered on its merits and not part of an omnibus trade package.

I yield the floor.

Mr. HATCH. Mr. President, every year U.S. businesses lose several billion dollars in revenues due to international theft of their products. Every time a book is photocopied without permission, a bootleg movie DVD is sold, or a piece of music is downloaded from the Internet, engineers, authors, musicians, actors, technicians, camera crews, lighting crews, building owners, investors—indeed, everyone involved in the process—lose money. The United States has long been the world leader in the creation of products protected by intellectual property. Almost every growing industry in the United States uses intellectual property laws as the single most important tool they have to ensure their companies will be viable and competitive in the world marketplace. Millions of employees throughout the United States can directly or indirectly tie their jobs to companies who use intellectual property protections for their products.

Because intellectual property is so important to the U.S. economy, our Government has a long tradition of working hard with the international community to enforce the basic and fair rights established by intellectual property law. Enforcement of these rights in foreign countries is extremely important to the U.S. economy and so the Congress has long provided Government officials with the direction and tools they need to pursue fair treatment of intellectual property on an international basis.

Be it through the Trade Act of 1974 or through the WTO establishment of the Agreement on Trade-Related Aspects of Intellectual Property Rights, TRIPS Agreement, the U.S. Government has been very active in pursuing the protection of intellectual property that brings me to the bill at hand.

As passed by the Senate on March 4, 2004, H.R. 1047 contained five important measures that would have given the U.S. Government more tools in our effort to protect intellectual property around the world. Specifically, the five intellectual property sections of H.R. 1047 would provide the U.S. Trade Representative additional time to negotiate and consult with countries prior to bringing a World Trade Organization intellectual property dispute; it would have given companies and innovators the ability to request the U.S. Government suspend certain trade benefits to Caribbean and Central American countries who are not meeting their intellectual property commitments; and it would have standardized the criteria for adequate and effective protection of intellectual property under several U.S. trade programs, thereby giving U.S. companies greater ability to protect their IP in several countries around the world.

Unfortunately, during the conference with the House, H.R. 1047 was stripped of four of the five IP protections I just outlined. This is of great concern to me. I fear the House conferees who were opposed to these important IP measures are selling our economy short and jeopardizing thousands of U.S. jobs. Failure to pass these important protections diminishes the U.S. Government's ability to encourage foreign governments to crack down on intellectual property violations. It is difficult to motivate foreign governments to seek out and prosecute those who steal the property of U.S. companies and sell it to consumers at reduced prices. However, this language would have provided an extra incentive for foreign governments to prosecute intellectual property theft and, hopefully, would have led to billions of dollars of additional U.S. exports across several industries.

Few U.S. industries enjoy a positive trade balance in the world marketplace; however, those few U.S. industries which do enjoy large positive trade balances with other countries depend on strong, internationally enforced intellectual property protections. It is beyond me why anyone would want to make it more difficult for these industries to enforce their property rights internationally. It is beyond me why anyone would want to stand idly by and watch American employees get ripped off by foreign companies.

Although this legislation was stripped of most of the intellectual property protections I worked so hard to include, I am supporting its passage because it provides tariff relief to many industries throughout the country. Many of our Nation's largest manufacturers and employers in industries such as agriculture, textiles, chemicals, pharmaceuticals, electronics, heavy equipment, and food and beverages all benefit greatly from the reduced tariffs provided by this legislation.

In fact, several large employers in my home State of Utah will benefit directly from this legislation. The reduced tariffs contained in this bill will provide these companies with the ability to compete for effectively in the global marketplace, to sell more products and services throughout the world, and create jobs in Utah. For these important reasons, I will support this legislation.

Although the Senate has not been able to take advantage of this opportunity to pass four very important intellectual property provisions on the Miscellaneous Tariffs Bill, I am hopeful that we can come together at the start of the 109th Congress and take up and pass these important protections. Those industries which depend on IP protections agree that we need them; the U.S. Trade Representative's Office agrees that we need them; and I call on my Senate colleagues to work with me next Congress to pass these important tools to help us combat international IP theft.

I yield the floor.

DUTY SUSPENSIONS FOR IMPORTED PRODUCTS

Mr. BUNNING. Mr. President, I would like to ask my colleague about the conference report to accompany H.R. 1047, the Miscellaneous Trade and

Technical Corrections Act of 2004, which passed the Senate floor by unanimous consent earlier today. This legislation contains a number of duty suspensions for imported products. The duty suspensions help make American industry competitive by allowing companies to reduce costs on needed inputs. An important criterion for duty suspension is that the imported product cannot compete with a domestic product.

I am concerned that duty suspensions were included in the bill for eight pigments that may compete directly with pigments produced in my State. If so, it could directly affect hundreds of workers in my State. The provisions at issue are: Sections 1439, 1440, 1441, 1452, 1453, 1454, 1455, and 1456.

I understand that the Department of Commerce has been contacted about these provisions and is willing to review them to determine whether they are appropriate for inclusion in this bill. Will the Senator work with me to ensure that the Department of Commerce completes its analysis?

Mr. GRASSLEY. I appreciate the Senator raising this issue with me. I am happy to work with the Senator from Kentucky and the Commerce Department to ensure that an appropriate and timely analysis is completed. I recognize that the duty suspensions in question take effect on January 1, 2005. If the results of this analysis demonstrate that the inclusion of these provisions in H.R. 1047 was inappropriate, I will gladly work with him to try and rectify the situation at the earliest possible date.

Mr. BUNNING. I thank my colleague and I pledge to work closely with you to resolve this matter.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time and ask unanimous consent that all time be yielded back.

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

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

Bill Frist, Chuck Grassley, George Allen, Craig Thomas, Jon Kyl, Mike Crapo, Robert F. Bennett, John Ensign, Pete Domenici, Lamar Alexander, John E. Sununu, Richard G. Lugar, George Voinovich, Peter Fitzgerald, Trent Lott, Lindsey Graham, Jim Talent.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Wyoming (Mr. ENZI), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Indiana (Mr. LUGAR).

Mr. REID. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Florida (Mr. GRAHAM), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 88, nays 5, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—88

Akaka	Dole	Mikulski
Alexander	Domenici	Miller
Allard	Dorgan	Murkowski
Allen	Durbin	Murray
Baucus	Edwards	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Feinstein	Nickles
Biden	Fitzgerald	Pryor
Bingaman	Frist	Reed
Bond	Graham (SC)	Reid
Boxer	Grassley	Roberts
Breaux	Gregg	Rockefeller
Brownback	Hagel	Santorum
Bunning	Harkin	Sarbanes
Burns	Hatch	Schumer
Campbell	Hollings	Sessions
Cantwell	Inhofe	Shelby
Carper	Inouye	Smith
Chafee	Johnson	Snowe
Chambliss	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kyl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Lautenberg	Talent
Corzine	Levin	Thomas
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	Wyden
DeWine	McCain	
Dodd	McConnell	

NAYS—5

Byrd	Dayton	Kohl
Coleman	Feingold	

NOT VOTING—7

Clinton	Hutchison	Lugar
Enzi	Jeffords	
Graham (FL)	Leahy	

The PRESIDING OFFICER. On this vote the ayes are 88, the nays are 5. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for Resolution No. 474 to be brought up for its immediate consideration, and I will allocate time.

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

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Ms. LANDRIEU. I am happy to cooperate. I thought we had worked this out. Perhaps we have not. I understand we are calling up a resolution for its immediate consideration and I will stay in the business that we are in.

Mr. FEINGOLD. Mr. President, I will suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? The clerk will call the roll.

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will not object to a quorum call if it is only temporary, and I mean very temporary, so we can work out our differences. This is a very important resolution that deserves to come before the Senate. Tomorrow is National Adoption Day and the Senator from Louisiana and I find this an important priority for all Senators. With that, I will not object, understanding that Senator FEINGOLD offers this only temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

NATIONAL ADOPTION MONTH

Ms. LANDRIEU. I ask unanimous consent the Senate proceed immediately to the consideration of S. Res. 474, submitted earlier today by myself, Senator CRAIG, Senator BOND, as well as Senator DEWINE, Senator FITZGERALD, Senator LEVIN, Senators SANTORUM and STABENOW—those last names be added as cosponsors to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 474) to express support for the goals of National Adoption Month by promoting national awareness of adoption, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children.

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

Ms. LANDRIEU. I yield to my friend who cosponsored this resolution for his remarks prior to mine.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank the Senator from Louisiana for her leadership on this issue and on the introduction of this resolution to recognize what we believe to be a very important month and a very important day for America, for America's children, and especially for the foster care children of America.

Tomorrow, November 20, is National Adoption Day. This month is National Adoption Month. Over the years, as we have worked to bring this to the attention of the American people and to people who would like to form families through adoption, we find this tremendously important. More than 3,100 adoptions of children from foster care will be finalized as a result of National Adoption Day. Of those who are in foster care, some 129,000 children wait for adoption. Senator LANDRIEU and I, over the last good number of years, have worked almost nonstop on this issue, not just for the foster care children of our country but for all children of our country who are seeking a permanent, loving, safe environment.

As a result of that effort, she and I and others on the House side took the old congressional coalition on adoption and created the Congressional Coalition on Adoption Institute. That institute is now one of the sponsors of National Adoption Month and National Adoption Day.

These efforts on the part of all of us, we hope, continue to build the kind of understanding and knowledge that is growing across America—that you can form a family through adoption. Adoption is a phenomenally viable option for couples who may not be able to have children naturally or who wish to expand their families, simply because they care so much about the future of children and who know that children who grow up in a safe, loving environment are going to be young people who become productive in our society instead of frustrated and oftentimes misguided in their adult efforts.

What I would like to do now is read the resolution and the President's Proclamation on National Adoption Month, because I think it speaks to the kind of cooperative effort that the Congress, that Mary and I and a good many others in this Senate and the Congressional Coalition on Adoption Institute have, with a lot of other alliances but very importantly with the President and the executive branch of Government.

This is the 2004 Presidential Proclamation on National Adoption Month, by the President of the United States:

By deciding to share their hearts and home with a child, adoptive parents demonstrate great compassion and receive many blessings in return. During National Adoption Month, we recognize the generosity of adoptive and foster families who are providing hope and love, and we encourage the adoption of children of all ages.

In 2002, I signed the Promoting Safe and Stable Families legislation that supports families and promotes adoption, and last December I signed the Adoption Promotion Act of 2003 to increase incentives to adopt older children. We have raised the adoption tax credit to $10,000 per child and created the AdoptUSKids website that has joined thousands of children with adoptive parents. We are working hard to place more children from foster care to permanent homes. This year, on November 20, communities from all 50 States and the District of Columbia will celebrate National Adoption Day by finalizing the adoption of thousands of children by loving families. And each one of those families will be enriched by the addition of new members. By bringing care and hope into other lives, individuals can fill their own lives with greater purpose.

Now, therefore, I, George W. Bush, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2004 as National Adoption Month. I call on all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent homes for waiting children.

In witness whereof, I have hereunto set my hand this fourth day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.

GEORGE W. BUSH.

That is what our President has said. He and this administration, as have others, have worked very cooperatively with Senator LANDRIEU and me. Much of what we talk about and much of what the President talked about were activities and efforts initiated right in the Senate—the child tax credit and other efforts to facilitate and make easier for Americans the ability to adopt children and bring them into their homes to create that loving environment that we talk about, that we know is so critically necessary in the lives of young people as they grow up.

So I am tremendously proud to join with my colleague, MARY LANDRIEU of Louisiana, as we work cooperatively together in the passage of this resolution and as we continue to work to foster the Congressional Coalition on Adoption Institute, to grow it.

Let me close by asking all Senators to become an active member with us in the Congressional Coalition on Adoption Institute, to participate in its activities and its purpose as we work to facilitate adoptions both here in this country and around the world.

I thank my colleague from Louisiana, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I am pleased and proud to join my colleague from Idaho. I have the opportunity this morning before this body to thank him for his extraordinary leadership on this issue and his tireless efforts. Despite all of the responsibilities he has as a leader of the majority party and all of the other issues that he leads, he always finds time for this issue. It is not an issue that has a lot of paid lobbyists associated with it because this is a coalition that is actually advocating on behalf of orphans. His leadership is particularly noted, and we are grateful for all the work that our Senators do for children, not only in our country but around the world.

While we do celebrate this month and recognize this month of November and mark this time noting our great progress and success, let me begin by saying, unfortunately, the number of orphans in the world is on the rise. Some experts predict an unprecedented number of orphans in the world—really in numbers not ever known by the world before. We have had world wars in the past that have caused the number of orphans to expand greatly, but in the midst of this century and this time not only do we have war and famine, but we have something the world has never seen before, and that is the epidemic of AIDS that is an orphan factory in Africa and India.

We come to the floor today to celebrate what successes we have achieved in the United States, and we will talk about those successes in a moment. The challenge is great. I look forward to working with Senator CRAIG and all Members of the Senate as we try to form a leadership team for the world to address this unprecedented number of orphans.

If I could just say one more word about AIDS, sometimes children are orphaned because a parent dies of heart disease or cancer, but those diseases usually just affect one parent, not two. Because of the nature of AIDS and the way this disease is transmitted, it actually works at killing parents in usually a quick amount of time, leaving children in the international community not single orphans but double orphans. So that is quite a challenge to the world.

Let me switch to a happy note. In America last year 120,000 children found loving and permanent homes, and approximately 12,000 of those children came from other countries to the United States to loving homes in all parts of our country; small towns in Idaho, very small towns in Louisiana, as well as to our larger metropolitan areas. And they were welcomed, of course, with happiness and celebration and have become parts of families. I am proud to say that over 100,000 children were adopted, children from the United States to American families right here at home out of foster care and, of course, infant adoptions as well. That was terrific.

Two million children live in adoptive homes today in our country. More extraordinary and more jolting and impressive is the fact that 6 out of every 10 Americans have been personally touched by adoption; either they themselves were adopted or they have adopted into their family or grandparents have received from their biological family adoptive grandchildren. The stories are endless and wonderful. We need to make sure this Government of ours is doing everything it can to connect children who need families because governments do a great job at many things, but raising children is not one of them. Children need to be raised by parents, preferably two parents, but at least one loving adult that can raise that child to be a contributing member of our society.

Our future truly depends on it. We can have all the great tax policies in the world, great health policies, great education policies, but it is parent to child, that carries future values from

one generation to the next. So making these connections is not only a feel-good thing to do, it is a necessary thing to do for the continuation of our great Nation and the world community and family.

Let me share briefly about some of the children waiting in my State. There are 500,000 children in foster care in the United States today. That is tragic. It is tragic and good and I will explain. It is tragic because children have been separated from their parents. Sometimes we could have done a better job of preventing that had we given more drug counseling on substance abuse or stronger educational benefits or job opportunities to those parents. On the positive side, sometimes children have to be separated from their families because, if not, they may literally die at the hands of parents who are not in their right mind and spirit. These children can sometimes be in danger.

While we try to protect, promote and develop a better system, the fact is, 500,000 children are in foster care, anywhere from the age of 1 month up to 21 years old.

These are pictures of some of the children in my State. There are many more. Some are young teens, children who are perfectly healthy, sibling groups. Cynthia is a beautiful child. She was born with cerebral palsy and needs special care and attention. This is a story of one child who gives everyone great inspiration. Children like this with the right love and attention can grow up to be Presidents, mayors of great cities, professors at our great universities. They just need love, attention, and care. That is what National Adoption Month is all about.

Let me in my brief time share a story about an extraordinary young woman who came out of an orphanage. I will tell the story and then show the picture because you will not believe it when I show the picture. I want to tell a story that Senator CRAIG and I know about that has touched our hearts that we want to share with you today.

A young girl, about 9 years ago, was left in an orphanage in Russia. We do not know too much about the circumstances, but what we know is she was severely disabled when she was born. She had spina bifida. She had a hole in her spine. In some places in the world, children born with disabilities are basically just left to die—even with disabilities that we have come to know in America can be fixed and corrected with good health care. But there are truly dying rooms around the world where infants and young children are born and left to die. They are not fed, they are not taken care of because there is no medicine, no doctors, and nobody can do anything, so they make a tough judgment: to feed the healthy children and leave the sick children to die.

This little girl was left in a dying room. But she would not die, basically. After 6 years of living, with very little support, a woman we know well showed up in one of our adoption agencies and was trying to find children in this orphanage to be adopted. She came across this child who was on the floor because she could not walk. She had no wheelchair but she crawled up and touched her jacket. She looked down at this child's eyes and saw something that obviously no one else had seen and decided to adopt this child. The orphanage kept saying: We don't want you to have this child; we want you to have a ''good'' child.

She kept saying: This is the child I want. I want this child with a hole in her back, the strong and beautiful little girl.

The long and short of the story is, this woman scoops this child up, brings the child to America, adopts this child as her daughter, and her name is Tatiana McFadden.

I want to show a picture of Tatiana, but no one is going to believe the end of this story. Tatiana represented the United States of America in the Para-Olympics in Greece this year and won the silver medal for our country, for America.

This is a picture of Tatiana, who is now 16 or 17 years old, one of the strongest, most courageous, bravest human beings I have ever met. She proudly carried the American flag over that finish line and won the silver medal in the Para-Olympics.

Senator CRAIG, my good friend from Idaho, and I hoped she would be our special guest at Angels in Adoption, but she was actually winning the medal as our event was taking place.

In honor of Tatiana McFadden, I wanted to speak for her and for the children she represents in America and around the world. This is Tatiana, receiving on our behalf, for the United States of America, the silver medal. She represents everything that Senator CRAIG and I want to share today about National Adoption Month.

There are many orphans waiting. They are not damaged goods. These are children who, through no fault of their own, have been separated from their parents for a variety of different reasons. They need and want families. They have a lot to offer not only to themselves but to their countries and their families.

We hope in November, as we gather around our Thanksgiving table, and as our Nation gathers and spends time on its knees thanking God for our many blessings which we have, remembering our blessings from the early founding of this country. As we gather around our tables and hold the hands of our children, let's think about the children who do not have parents and what we can do.

Every Senator can most certainly do something. Many Senators and House Members are doing a great deal.

My colleagues have been very gracious with this time, but I close by saying that tomorrow, on Saturday, many of our colleagues, House and Senate Members, will be participating at their courthouses all over America. We are happy to say that we will have 4,000 children adopted tomorrow, on National Adoption Day, an effort started by one judge, Judge Nash in Los Angeles, CA, who started this to call attention to children like Tatiana. All they need is someone to pick them up, hold them, love them. Basically the spirit that God has put in them will do the rest. That is what this month is about.

I thank my colleague for offering this resolution. I thank the Senators in the midst of their busy work schedule for pushing this resolution through. I thank the President for his great support and acknowledge President Clinton and First Lady Clinton's effort, now Senator CLINTON, and President Bush and Mrs. Bush, for their good leadership on this issue—not just in America, as my colleague knows, but as President Bush advocates these policies around the world.

Ms. LANDRIEU. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider by laid upon the table, and any statements related thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

The resolution (S. Res. 474) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 474

Whereas there are approximately 532,000 children in the foster care system in the United States, approximately 129,000 of whom are waiting to be adopted;

Whereas the average length of time a child in foster care remains in foster care is almost 3 years;

Whereas for many foster children, the wait for a loving family in which they are nurtured, comforted, and protected is endless;

Whereas every year 25,000 children ''age out'' of foster care by reaching adulthood without being placed in a permanent home;

Whereas, since 1987, the number of annual adoptions has ranged from 118,000 to 127,000;

Whereas approximately 2,100,000 children in the United States live with adoptive parents;

Whereas approximately 6 of every 10 Americans have been touched personally by adoption in that they, a family member, or a close friend was adopted, has adopted a child, or has placed a child for adoption;

Whereas every day loving and nurturing families are formed when committed and dedicated individuals make an important difference in the life of a child through adoption;

Whereas, on November 20, 2004, communities from all 50 States and the District of Columbia will celebrate National Adoption Day by finalizing the adoption of thousands of children by loving families; and

Whereas on November 4, 2004, the President proclaimed November 2004 as National Adoption Month: Now, therefore, be it

Resolved, That the Senate recognizes November 2004 as National Adoption Month.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

Mr. FEINGOLD. Reserving the right to object.

Mr. BOND. I thank the President.

Mr. FEINGOLD. Madam President, reserving the right to object, I will not object to these remarks, but subsequent to that we will begin the postcloture discussion of the issue before the Senate.

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

Mr. BOND. Madam President, I commend my colleagues from Louisiana and Idaho. It was a very touching story of the Senator from Louisiana which highlights the importance of adoption month. This is a wonderful effort that my two colleagues have launched. We are pleased to support them and the President's efforts and all those wonderful people who take adopted children into their home.

(The remarks of Mr. BOND pertaining to the introduction of S. 3009 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, I want to speak on the miscellaneous tariffs bill.

Last spring, Senator FEINGOLD and I sent a letter to the minority leader making it clear we would object to taking up S. 2200, a bill granting NTR status to Laos because of the human rights situation there. At the time we said:

> Reports emerging from Laos remain disturbing. Journalists, human rights groups, and many of our constituents inform us that the Laos government continues to be responsible for serious human rights violations, and that conditions are particularly difficult for the Hmong ethnic group.

The situation in Laos has not changed, and, in fact, over the last several months more disturbing evidence has emerged that now is not the time for us to appear to be rewarding one of the most closed and repressive regimes. For the first time, we have independent corroboration of the types of charges which have been made by many Hmong residents of my State for years and by others who have fled Laos more recently.

On September 13, 2004, Amnesty International issued a report entitled ''Military Atrocities Against Hmong Children Are War Crimes.'' The report, which I will read from momentarily, details horrific crimes committed in May of this year reportedly by Laos soldiers. These crimes were captured on a graphic videotape smuggled out this summer and which I understand the State Department has taken very seriously, and they were also described by witness testimony.

The attack took place against a group of children, five of whom were killed, in a remote area of the country, and was described by Amnesty International as follows:

> The 5 children, between 13 and 16 years old and part of an ethnic Hmong rebel group, were brutally mutilated—the girls apparently raped before being killed—by a group of approximately 30–40 soldiers. The victims—four girls, Mao Lee, 14; her sister Chao Lee, 16; Chi Her, 14; Pang Lor, 14; and Tou Lor, Pang Lor's 15 year old brother—were killed whilst foraging for food close to their camp. They were unarmed.
>
> A witness, who has subsequently fled the country and been recognized as a refugee by the United Nations High Commissioner for Refugees, reported hearing one of the soldiers saying: ''Hmong. Your mouth allows you to speak. Your vagina allows you to breed''.
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> He then heard moans and a gunshot.
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> A 14-year-old girl was shot in each breast and the other bodies were mutilated by what appears to be high-powered rifle shots fired at close range. One of the girls was disemboweled.
>
> Several other members of the group were seriously injured with gun shot wounds but managed to return to their encampment. The rebels have little if any medicine and rely on traditional treatments using plants found in the forest.

It is my understanding that in the last several weeks, our State Department has delivered a demarche to the Lao Government, calling for thorough investigation of these atrocities which happened in May—an investigation that is credible and that would withstand scrutiny by the international community. To date, there has been no such investigation and the soldiers involved with these war crimes have not been held accountable.

Also this year, came startling and deeply upsetting reports. Hundreds of former Hmong-Lao insurgents—many of whom courageously helped our military during the Vietnam War—and their families emerged from the jungles in Laos only to be captured by the Lao military and mistreated, and as some allege, killed.

The emerging Hmong-Lao were under the impression that there was an amnesty program organized by the Laotian government, but there was much confusion about this program. The Lao government has officially denied there was such a program, they have refused to provide our Government with any details of this mass surrender of ethnic Hmong and their families, and they would not accept humanitarian assistance for the sudden influx of people seeking assistance.

In response to these reports, Senator FEINGOLD and I, along with others, sent a letter to Ambassador Negroponte asking for his assistance in urging the United Nations to send a high level UN representative or fact finding mission to Laos to monitor the treatment of the Hmong. I also raised the issue with Secretary Powell when he came to testify before the Commerce-Justice-State Appropriations Subcommittee. Secretary Powell expressed concerns about the reports coming out of Laos. He agreed that there is a need for greater access and that more needs to be done to secure the safety of the Hmong. And, while Laos hasn't exactly been on the front burner, this spring the Secretary raised the issue of the Hmong in Laos with UN Secretary General Kofi Annan, and he wrote to the Lao Foreign Minister to express concerns about the reports related to the supposed amnesty.

It is my understanding that there has been no reply to Secretary Powell's letter.

So, here we are today offering a carrot to a government that has essentially stonewalled our Secretary of State and has restricted access to independent international monitors, leaving us with no way to investigate the many reports coming from Laos.

I am aware that there are supporters of Laos who have raised questions about the veracity of reports of human rights violations against the Hmong. Because of restrictions put in place by the Lao government that deny policymakers, journalists, and humanitarian groups access to the situation on the ground, it is very difficult to confirm these reports one way or the other. More significantly, it is virtually impossible to ensure that these individuals are being treated fairly and humanely. That is why it is essential for us to keep the pressure on the Lao government to push for international access. Such access would be crucial in determining the facts surrounding the treatment of the Hmong and would allow us to ensure that they are not being mistreated.

The sad fate of the Hmong in Laos has been exacerbated by their role in helping the United States during the Vietnam war. By 1963, as many as 20,000 Hmong fighters were trained and armed by the Central Intelligence Agency to fight against the North Vietnamese Army and Pathet Lao forces as part of the so-called ''secret war in Laos.'' Some reports put the number of fighters as high as 40,000 in 1969. The Hmong sustained heavy casualties during those years, working in coordination with the CIA. The impact on the Hmong community extended beyond the actual fighters: Family members lived under terrible conditions, throughout this period, unable to farm because they were constantly moving to keep one step ahead of the Communists. Since they were never in one place long enough to harvest, they had to eat leaves, wild fruit, tree bark, and whatever else they could find in the jungle. The United States is indebted to these former Hmong insurgents who rescued downed American pilots and disrupted North Vietnamese supply lines—under the most difficult circumstances. We cannot forget these courageous individuals and their families.

In the years since the end of the Vietnam war, thousands of Hmong

have fled to Thailand, living a life of separation from their homeland and ongoing transition. Hmong have come to the United States, resettling in California, Minnesota, Wisconsin, North Carolina, and Rhode Island. My State of Wisconsin is the home to 33,000 former Hmong refugees, many of whom are concerned about the status of their family and friends in Laos. And, last December, the U.S. Government decided to admit 15,000 Hmong-Lao refugees who were living in Thailand. These refugees began to arrive in June and they will continue to arrive through the end of the year.

Estimates are that there are as many as 17,000 Hmong still live in the jungles of Laos. According to the Associated Press, about 20 Hmong communities are currently involved in low level combat against the Lao communist government, which came to power in 1975 at the end of the Vietnam War. Most recently, there are reports that as many as two thousand Hmong have been under attack in remote regions of Laos by Lao forces using grenades, machine guns, and mortars. The scattered reports we receive are from those who manage to escape the area, those who call out on satellite phones, and the few reporters who venture onto the dangerous terrain.

In October 2003, Amnesty International issued a report which stated that the Lao government is using starvation as a ''weapon of war against civilians''—a clear violation of the Geneva Conventions, which Laos has ratified. The report indicated that the Lao military had surrounded several rebel groups and their families, including civilians, and was preventing them from foraging for food they need to survive. At that time, Amnesty stated that it was greatly concerned ''by the sharply deteriorating situation of thousands of family members of ethnic minority groups, predominantly Hmong, involved in an armed conflict with the Lao military in jungle areas of the country.'' Articles in Time Asia in spring 2003 underscored these charges, stating that the Lao government had hunted down and surrounded ''this dwindling group of outcasts.'' The pictures accompanying this and other pieces in Time have shown the Hmong in the jungle living in deplorable conditions.

Beyond its treatment of the Hmong, the Lao government also has a history of particularly severe violations of religious freedom which have been documented by the U.S. Commission on International Religious Freedom in a report submitted to Congress last March. The Commission has designated Laos as a ''country of particular concern'' and has said that ''U.S attention to Laos at this time may advance protections for religious freedom and promote U.S. interests.''

I am sure that granting NTR was not the kind of attention the Commission had in mind.

To quote from their report:

> . . . there has been extensive government interference with and restrictions on all religious communities. In more recent years, the government has focused its repression on religions that are relatively new to Laos, including Protestant Christianity . . . [Violations] include the arrest, prolonged detention, and imprisonment of members of religious minorities on account of their religious activities. . . . Lao officials have forced Christians to renounce their faith . . . dozens of churches have been closed.

This persecution of religious minorities has extended to U.S. citizens as well. In June of this year, the Laotian Government arrested, imprisoned, tried, convicted, and sentenced to 15 years in prison a Lutheran minister, a U.S. citizen, from St. Paul, MN. While in captivity, he was denied consular access for over a week and was subjected to a so-called trial before the Laotian judiciary system. Although he was released after a month, Laotian Christians have not been so lucky. Some Christian pastors say leaders have remained imprisoned for years. As long as there is no pressure on the Lao Government, we can expect the status quo to continue.

With all due respect to my colleagues on the Finance Committee, I have to say they have been surprisingly eager to grant NTR status to Laos. They have been so focused on taking this step in the context of cleaning up our trade laws and eliminating the distinction between those nations which have NTR status and those that do not have NTR status that they have forgotten that this is not happening in a vacuum. Whether we intend to or not, we are sending a strong signal to the Lao Government, and that signal is that they can act with impunity.

I recognize there is strong support for the miscellaneous tariff bill that has nothing to do with Laos NTR, and that many of my colleagues are not casting this vote with Laos in mind. For many years, I have worked with others, including my colleague, Senator FEINGOLD, to shed more light on the condition of the Hmong in Laos and to assure their safety, and I did guarantee I will continue to do so.

Madam President, I commend to my colleagues a report on the CIA Web site entitled ''Supporting the 'Secret War': CIA Air Operations in Laos, 1955 to 1974.'' The report is by a historian at the University of Georgia.

I ask unanimous consent to have printed in the RECORD a report from Time magazine of May 5, 2003, entitled ''Welcome to the Jungle,'' which details the deplorable conditions of the Hmong in the jungle in Laos. As one of the Hmong said, ''We shed blood with the U.S . . . they should remember us.'' Also, a report dated September 13, 2004, from Amnesty International entitled ''Laos: Military Atrocities Against Hmong Children Are War Crimes.'' Then a letter from the United States Commission on International Religious Freedom.

And a letter dated March 15, 2004, to the U.S. Ambassador to the U.N., John Negroponte, signed by members of the Wisconsin, California, and Minnesota delegations.

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

[From Time Magazine, May, 2003]

WELCOME TO THE JUNGLE

(By Andrew Perrin)

There were hundreds of them, perhaps a thousand. They wept and knelt before me on the ground, crying, ''Please help us, the communists are coming.'' I had hiked four days to reach this forsaken place deep in the jungles of Xaysomboune, northern Laos. The Hmong rebels prostrate before me were convinced they would all soon die. They knew they were a forgotten tribe, crushed by a military campaign that is denied by the communist leaders of their small, sheltered nation.

In all my years as a journalist I had never seen anything like this: a ragtag army with wailing families in tow, beseeching me to take news of their plight to the outside world. I walked among starving children, their tiny frames scarred by mortar shrapnel. Young men, toting rifles and with dull-eyed infants strapped to their backs, ripped open their shirts to show me their wounds. An old man grabbed my hand and guided it over the contours of shrapnel buried in his gut. A teenage girl, no more than 15, whimpered at my feet, pawed at my legs and cried, ''They've killed my husband. They've killed my mother, my father, my brother . . .'' But before she could finish, others were pushing her aside to sob out their own litanies of loss. In this heart of darkness, nobody has a monopoly on grief.

Now, for the first time in nearly three decades, this dwindling group of outcasts are completely surrounded by the Lao government troops that hunt them. They are trapped in a narrow swath of jungle, with all avenues of escape blocked by either soldiers or antipersonnel mines. ''This time,'' says Moua Toua Ther, 46, the one-armed leader of the camp and commander of its pitifully equipped fighting force, ''we will not be able to run or hide. When the helicopters come we will be butchered like wild animals.''

What is the crime this ragged bunch has committed? It is simply that they are Hmong, mostly the children, grandchildren or even great-grandchildren of fighters who in the 1960s sided with the U.S. to fight communism in Laos during the Vietnam War. Fabled for their resourcefulness and valor, many Hmong became members of a secret CIA-backed militia that helped rescue downed U.S. pilots and disrupted North Vietnamese supplies and troop movements along the Ho Chi Minh Trail through central Laos. The communist Pathet Lao movement—and its patrons in Hanoi—has never forgotten the Hmong's complicity with the Americans. Shortly after the Pathet Lao took power in 1975—two years after the U.S. had fled the country and left the Hmong soldiers to their fate—a communist newspaper declared the Party would hunt down the ''American collaborators'' and their families ''to the last root.'' But until Time recently reached one of the last Hmong outposts, no one truly believed that, after 28 years, the Lao government still meant it. This, then, is the final act of a war that, according to history books, ended in 1973.

The Hmong, who migrated to Laos from southwestern China in the 19th century, have always been a proud, warlike people. In the 1920s a Hmong rebellion against their French rulers erupted in much of Laos and northern Vietnam, ultimately failing but leaving thousands dead. When the French left Laos

in 1953, the Hmong found themselves fighting again—this time against the threat of communism. Among the resisters was a young Hmong general named Vang Pao, who in 1961 was commissioned by the CIA to set up a secret army to fight the advancing communists. Over the next decade nearly half of the 40,000 Hmong fighters in Vang Pao's army are thought to have perished during the fighting. The reward for their sacrifice? The Paris cease-fire agreement of 1973, which signaled an end of U.S. aid. Vang fought on for two more years, but when it became clear that the Pathet Lao would win he fled to Thailand and then to the U.S. Today, some 200,000 other Hmong live in exile communities in the U.S. But not all Hmong made it to America: 15,000 of Vang's brethren were cut off from escape and were forced to melt away into the mountainous jungles of Laos.

Even from California, where he leads the United Lao Liberation Front (ULLF), Vang, 74, casts a long shadow over his people. Moua says he reports directly to Vang—a claim the Californian denies, though he does admit to providing occasional help. From his suburban American home, the exiled general demands democracy and a reinstatement of the monarchy in Laos. Moua and his militia are among the remnants of Hmong rebel groups fighting for that disappearing dream.

Moua joined Vang's secret army at age 15. His left arm ends in a stump-his hand was removed in a 1974 jungle amputation. One of only four people in the village with some writing skills, he is a meticulous keeper of village statistics—there are 56 orphaned children, 40 widows and 11 widowers. By Moua's count, 30% of the villagers have shrapnel wounds. In 1975, when Vang fled Laos, Moua recorded his group at 7,000 people. Today there are only about 800 left.

Although the Hmong have been on the run for nearly three decades, Moua and others in his village regard the past year as the worst. In October, they say, some 500 ground troops attacked them from four directions in Xaysomboune while a gunship strafed them from above. In all, 216 Hmong were killed. Such assaults can come at any time. Last August, a mortar round landed less than a meter from nine-year-old Yeng Houa's family dinner table, killing both his parents. Yeng survived; but I count 18 shrapnel scars on his legs, his jaw is broken and there is an infected sore on his inner thigh. Since the attack, he has not spoken.

The Hmong say they are too ill-equipped to strike back. Most of their fighters are armed with ancient M–16s and AK–47s, and the heaviest weapons at their disposal are two geriatric M–79 grenade launchers. Ammunition is mostly dug up from former U.S. air bases. According to Moua, only a third of the rounds are actually live, negating Hmong chances of launching a viable offensive. As for the Lao government, which declined to talk to Time, it denies allegations that it is decimating Hmong rebels and blames them for much of the unrest in the country. It insists that Hmong are doubling as bandits. In February an ambush on a bus traveling the busy Highway 13 in the north left 12 people dead, including two Swiss cyclists. A calling card pinned to one of the corpses indicated the deaths were the work of Hmong rebels. And on April 20, gunmen opened fire on a passenger bus, killing at least 13 people. Eyewitnesses to this massacre say the gunmen spoke to one another in the Hmong language. Vang Pao angrily denies claims that his men are responsible for attacks on civilians. ''In the past there have been several events like this that have taken place and been blamed on the ULLF,'' he says. ''But it was not us. We believe it was organized by the government using Hmong people who serve in the Lao army.'' For his part, Moua portrays the Hmong as helpless innocents. ''We only defend and run,'' he says. ''If the Lao troops launch an assault, our ammo won't even last an hour.''

Back in the mountains of Xaysomboune, Moua and his comrades sleep uneasily on beds of leaves inside banana-leaf huts. Most cannot recall how many times they've relocated, but they remember the people they've lost Bhun Si, 42, says his wife and two sons were taken from him last October. His friend Soum Sai saw everything: the government troops came in, he says, and shot women and children from a distance of just five meters. Today, Bhun looks barely alive himself. Only two fingers remain on his left hand—he lost the others in a B–41 rocket attack that killed six of his fellow Hmong. His leg still bleeds from a suppurating shrapnel wound he received 13 years ago. One side of his face is a mask of melted flesh, with black sockets where an ear and an eye should be. ''Everybody is dead,'' he says. ''Sixteen people in my family are dead, all killed by the communists.'' In a heartbreaking refrain I heard repeatedly during my stay in the camp, he adds, ''America must save us.''

Commander Moua, too, wonders where his erstwhile American allies have gone. ''We shed blood with the U.S.,'' he says. ''They should remember this. They should find us a land where we're safe and have food to eat.'' But as the world has watched in awe of the might of the U.S. war machine in Iraq, the final scenes of a 30-year-old war in Indochina that America would rather forget are destined to play out unnoticed.

[From Amnesty International, Sept. 13, 2004]

LAOS: MILITARY ATROCITIES AGAINST HMONG CHILDREN ARE WAR CRIMES

Amnesty International is horrified by recent reports, including video evidence and witness testimony, of an attack by Lao soldiers against a group of five children, four of them girls, in the Xaisomboune military zone on 19 May 2004.

The children, aged between 13 and 16 years old and part of an ethnic Hmong rebel group, were brutally mutilated—the girls apparently raped before being killed—by a group of approximately 30–40 soldiers. The victims—four girls, Mao Lee, 14; her sister Chao Lee, 16; Chi Her, 14; Pang Lor, 14; and Tou Lor, Pang Lor's 15 year old brother—were killed whilst foraging for food close to their camp. They were unarmed.

The attacks violate the most fundamental principles of international human rights and humanitarian law. These rapes and killings constitute war crimes. The Lao authorities must bring to justice those responsible for this atrocity and cease attacks on unarmed civilians.

A witness, who has subsequently fled the country and been recognized as a refugee by the United Nations High Commissioner for Refugees, reported hearing one of the soldiers saying: ''Meo (Hmong). Your kael ni (mouth) allows you to speak. Your hin (vagina) allows you to breed''.

He then heard moans and a gunshot.

Mao Lee was shot in each breast and the other bodies were mutilated by what appears to be high-powered rifle shots fired at close range. One of the girls was disembowelled.

Several other members of the group were seriously injured with gun shot wounds but managed to return to their encampment.

The rebels have little if any medicine and rely on traditional treatments using plants found in the forest.

The Lao authorities must, as a matter of utmost urgency, permit UN agencies and independent monitors unfettered access to those rebels who are recently reported to have 'surrendered'. They must also permit humanitarian agencies to provide medical and food assistance to those injured as a result of this and other military actions against the rebels.

BACKGROUND

The Hmong ethnic minority group in Laos was allied to the US during the Viet Nam war and its spill-over fighting in both Laos and Cambodia. The Hmong people have a long history of resistance and aspirations of independence from Lao government control. Following the creation of the Lao People's Democratic Republic in 1975 and the fall of the former regime, as many as a third of the Hmong ethnic minority are believed to have fled the country. Most of these refugees resettled in the USA, but a large number spent many years in refugee camps in Thailand.

Sporadic military resistance to the government has continued among some ethnic groups, predominantly Hmong. There are also continuing allegations of serious human rights abuses against those Hmong perceived as still being opposed to the Lao government.

There have been increasing concerns over the last two years at an apparent increase in Lao government military activity against rebel groups, who along with armed adult men also comprise a large number of women, children, elderly and sick. The upsurge in military activity followed increasing international concern at the situation, which was triggered by a number of journalists visiting rebel groups and reporting their plight.

Credible sources have reported the deaths of scores of civilians, mainly children, from starvation and injuries sustained during the conflict. It is known that several of approximately 20 rebel groups with their families are surrounded by Lao military and prevented from foraging for food that they traditionally rely on to survive. Amnesty International has protested to the Lao authorities at what it believes is the use of starvation as a weapon of war against civilians.

Several hundred ethnic Hmong rebels are reported to have 'surrendered' to the Lao authorities in recent months. UN agencies, diplomats and journalists have not been given access to these people and Amnesty International has received conflicting reports as to their reception and treatment by the authorities.

Amnesty International has also repeatedly condemned indiscriminate attacks by armed opposition groups that have reportedly killed and injured civilians in Laos. Amnesty International unequivocally condemns these acts and has and will continue to call upon the perpetrators to cease all activities that are in violation of human rights and international humanitarian law.

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM,
Washington, DC, March 20, 2003.

Senator HERB KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: On behalf of the U.S. Commission on International Religious Freedom, I am pleased to enclose the Commission's 2003 report and policy recommendations on Laos. The Commission is charged with reviewing the facts and circumstances of violations of international religious freedom. By law, a key function of the Commission is to submit to the President, Secretary of State, and Congress its findings and recommendations for U.S. policies with respect to foreign governments engaging in or tolerating violations of religious freedom.

In its most recent report, the U.S. Commission on International Religious Freedom determines that the government of Laos has been engaged in particularly severe violations of religious freedom, as defined in the

International Religious Freedom Act of 1998 (IRFA). These violations include the arrest, prolonged detention, and imprisonment of members of religious minorities on account of their religious activities.

The Commission draws attention to abuses including arrests, prolonged detention and imprisonment of members of minority religions, forced renunciations of faith of Christians, and extensive governmental interference with and restrictions on all religious communities, including Evangelical Christians, Roman Catholics, Baha'is and Buddhists. In July 2002, the Lao government promulgated a new decree on religious affairs that provides a legal basis for control of and interference with religious activities by government officials.

Lao officials perceive the United States to be influential in the provision of international aid for Laos' development and some have thus demonstrated a willingness to address U.S. concerns, including human rights concerns raised by the Commission, the State Department, and non-governmental organizations. The United States has a unique opportunity to engage the government and people of Laos in a process of reform that would end the suppression of religious freedom and other related human rights, and relatively small measures of attention and assistance could accomplish a great deal.

Therefore, the Commission makes the following recommendations to the President, Secretary of State, and Congress:

1. President Bush should designate Laos as a ''country of particular concern'' to make clear U.S. concerns over particularly severe violations of religious freedom in Laos, thus engaging the U.S. government in a process to promote changes that would advance legal as well as practical protections of freedom of religion and related human rights in that country.

2. The U.S. government should urge the government of Laos to take specific steps to improve respect for religious freedom, including the possible establishment of a bilateral human rights dialogue that would also address the broader range of human rights concerns such as torture and other forms of ill-treatment.

3. The U.S. government should provide assistance to Laos to take genuine steps to reform its practices, policies, laws, and regulations that contribute to religious freedom violations.

The report, as well as information about the Commission, can be found on our Web site at www.useirf.gov. For further information, please contact the Commission at (202) 523–3240.

Sincerely,

FELICE D. GAER,
Chair.

U.S. SENATE,
Washington, DC, March 15, 2004.

Ambassador JOHN D. NEGROPONTE,
U.S. Ambassador to the United Nations, United States Mission to the United Nations, New York, NY.

DEAR AMBASSADOR NEGROPONTE: We are writing to ask for your assistance in urging the United Nations to send a UN representative or fact-finding mission to Laos to monitor the treatment of hundreds of Hmong-Lao, many of whom are former insurgents and their families, who have recently emerged from the jungles of Laos. A high-level UN presence is essential in securing the safety of these individuals, as well as in providing greater transparency regarding Lao governmental actions to the international community.

Over the past several weeks, hundreds of Hmong-Lao and their families have left the jungles of Laos. Many of these former insurgents fought with the Central Intelligence Agency during the Vietnam War to rescue downed American pilots, to thwart supply lines along the Ho Chi Minh trail and to hold off North Vietnamese troops. When the Vietnam War ended and the communist Pathet Lao took over the government, thousands of Hmong were killed and sent to reeducation camps. Most Hmong fled Laos or hid in the jungles of Laos, fearing far their lives. Some estimate that as many as 17,000 Hmong have been living in the jungles since 1975. The United States remains indebted to these courageous individuals and their families.

The U.S. government claims that these individuals have surrendered to the Lao government and are participating in an unofficial and ''unstated'' amnesty program organized by the government of Laos. Yet, our offices have heard contradictory information. Reports indicate that the Laotian government denies the existence of any amnesty program for these individuals. In addition, many of our constituents claim that these former insurgents have been captured by the Lao military and did not surrender. Our constituents fear that these people are in serious danger and allege that many have already been killed, including women and children. Amnesty International in a report on March 4, 2004 states, ''Amnesty International has received conflicting reports as to their [the Hmong's] reception and treatment by Lao authorities.''

The restrictions imposed by the Lao government on international access have prevented policymakers, journalists and humanitarian groups from knowing the reality on the ground and understanding the needs. The United Nations can play a crucial role in shedding light on the situation. We ask you, therefore, to urge the United Nations to send a UN representative or fact-finding mission to ensure that these former insurgents are treated humanely and that the Lao government respects its obligations under international law.

We thank you for your consideration.

Sincerely,

Russ Feingold, U.S. Senator; Herb Kohl, U.S. Senator; Barbara Boxer, U.S. Senator; Mark Dayton, U.S. Senator; Dianne Feinstein, U.S. Senator; Ron Kind, U.S. Representative; Mark Green, U.S. Representative; Devin Nunes, U.S. Representative; George Radanovich, U.S. Representative; Dana Rohrabacher, U.S. Representative.

Mr. KOHL. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to express my strong opposition to efforts to push through a provision normalizing trade relations with Laos.

First, let me thank my senior colleague, Senator KOHL. I enjoy working with him on so many issues, from our dairy industry in Wisconsin, to our excellent National Guard. But I am particularly proud he and I have been able to cooperate and work so hard with regard to the Hmong people living in Wisconsin and the concerns they have regarding issues not only concerning their own lives in Wisconsin but also the issues involving their families and their relatives in places such as Laos. I thank the Senator for all the work we have done together on this issue, and we will continue this battle to make sure there is accountability with regard to the human rights record of the Government of Laos, which is not a good record.

It is for this reason I am deeply disappointed the decision was made to insert this provision in the Miscellaneous Trade and Technical Corrections Act of 2004 conference report. Let's again remember—and Senator KOHL pointed this out—so there is no misunderstanding, this bill would sail through the Senate if this provision on Laos was not included. Senator KOHL and I are not trying to block the larger legislation. However, I cannot support upgrading Laos's trading status as long as the human rights situation in that country remains so disturbing, and I am not prepared to let this bill pass without at least some further debate on this important matter.

As Senator KOHL just said, this is the wrong time to reward the Government of Laos with normal trade relations. Reports emerging from Laos continue to demonstrate that human rights conditions in Laos remain appalling. Despite the Lao Government's denials, human rights organizations, the U.S. Government, my constituents, and various news agencies have all documented the Lao Government's blatant disregard for human rights.

I have tried to carefully and closely monitor the human rights situation in Laos as a member of the Senate Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs, and as a representative of over 35,000 Hmong in Wisconsin, many of whom fled Laos following the end of the Vietnam war.

Just like Senator KOHL, I am regularly contacted by constituents concerned about their friends and family in Laos. Again and again, my office encounters reports of atrocities committed against the Hmong in Laos and other deplorable practices by the Lao Government. These reports, combined with the Lao Government's absolute refusal to investigate allegations or to permit independent monitoring, lead me to believe it is not in our country's national interest to adopt normal trade relations with the Lao Government at this time.

The State Department has documented these abuses through a series of reports, including their Human Rights Report, Trafficking in Persons Report, and Religious Freedom Report. In their Country Report for Human Rights Practices for 2003, the State Department reported the Lao Government's ''human rights record remained poor, and it continued to commit serious abuses.'' As described by the report, the abuse of detainees and prisoners, inhumane prison conditions, arbitrary arrests, detention and surveillance by police, a corrupt judiciary, and restrictions on freedom of speech, the press, assembly, and association are just some of the conditions that Laotians face.

Trafficking in women and children for prostitution and forced labor in

Laos is also a serious problem. The State Department's 2004 Trafficking in Persons Report placed Laos in their tier 2 watchlist which they said reflected the ''lack of evidence of increasing Lao Government efforts to prosecute traffickers and to provide adequate protection for victims.'' It also stated that some local government officials ''likely profit from trafficking.''

The State Department's International Religious Freedom Report for 2004 describes restrictions on freedom of religion, stating that while the country's constitution allows for freedom of religion, the Lao Government actually ''restricts this right in practice.'' The report states that local officials were reported to pressure Christians to ''renounce their faith on threat of arrest or forceful eviction from their villages. There were also several instances of persons detained or arrested for their religious faith.''

The report goes on:

> The absence of rule of law has created an atmosphere in which authorities may act with impunity against persons regarded as threats to social order. Persons arrested for their religious activities have been charged with exaggerated security or other criminal offenses. Persons detained may be held for lengthy periods without trial. Court judges, not juries, decide guilt or innocence in court cases, and an accused person's defense rights are limited. A person arrested or convicted for religious offenses has little protection under the law. All religious groups, including Buddhists, practice their faith in an atmosphere in which application of the law is arbitrary. Certain actions interpreted by officials as threatening may bring harsh punishment. Religious practice is ''free only if practitioners stay within tacitly understood guidelines of what is acceptable to the government and the LPRP . . .''

—The Lao Republic Revolutionary Party, the country's ruling party.

A particular concern to my constituents and to me is the steady flow of reports of atrocities committed against the Hmong in Laos. My office is regularly bombarded with reports of murders, rape, and starvation of the Hmong in Laos. We cannot verify each of these claims, but the stream of videos, photographs, eyewitness reports, and articles is deeply disturbing. These allegations cannot be dismissed outright, as the Lao Government simply does again and again, denying the Hmong's very existence in the jungles of Laos. My constituents and the constituents of many Members of Congress care deeply about the well-being of their friends and families.

It is not just our constituents and Members of Congress who are concerned. Patricia Haslach, our U.S. Ambassador to Laos, stated in her nomination hearing on April 22, 2004, that her first priority was to press the Lao Government to respect the rights of ethnic groups, especially the Hmong population. The former Ambassador to Laos, Ambassador Douglas Hartwick, also made this a priority in his dealings with the Government of Laos and recognized the need for greater transparency and reform.

As Senator KOHL pointed out, and as I reiterate, let us not forget the obligation the United States has to the Hmong. During the Vietnam War, the Central Intelligence Agency recruited, trained and armed approximately 60,000 Hmong to fight the Vietcong in a secret war. They fought with the CIA to rescue downed American pilots, to thwart supply lines along the Ho Chi Minh trail and to hold off North Vietnamese troops. Following the ascendancy of the communist Pathet Laos regime in 1975 in Laos, the Lao government cracked down on its perceived political opponents, including the U.S.-trained Hmong guerilla fighters. Lao and Vietnamese troops crushed nearly all remnants of the Hmong army. Tens of thousands of Laotians, including the Hmong, died while attempting to flee the Lao communist regime, and many others perished in reeducation and labor camps. Hundreds of thousands of people fled to Thailand, and between 1975 and 1998, nearly 130,000 Hmong refugees were admitted to the United States.

The Hmong's relationship with the CIA was not acknowledged by the U.S. until 1994 when the former CIA Director William Colby told Congress of the Hmong's cooperation with the CIA. At that hearing, he stated that the Hmong contribution was ''substantial and at great sacrifice.'' He further stated:

> Many of the Hmong who bore the burden of that effort did so in hopes of a better life for their families and children, only to see them flee their homes in fear of their enemies to become dependent refugees in foreign lands . . .

The largest Hmong communities are now in Wisconsin, Minnesota, California and the State of the Presiding officer, North Carolina. There are approximately 280,000 Hmong nationwide. My State of Wisconsin is home to the third largest Hmong community in the United States, most of whom came to this country from Laos as refugees after the Vietnam War. I am proud of the Hmong veterans and their families who sacrificed so much during the Vietnam War.

The Hmong people have made important contributions to Wisconsin and this Nation. They have brought new traditions and new perspectives, which have enriched the cultural life of my State and many others. I have consistently admired their passion and commitment to tackling a host of difficult issues confronting their community in the United States, Laos and in Thailand. They have endured tremendous hardship, even in the United States, as they have adjusted to an entirely new way of life here. I admire their strength and perseverance. In December 2003, the United States Government announced the creation of a new resettlement program of approximately 15,000 Hmong-Lao, who were living at a temple named Wat Tham Krabok in Thailand. They have already begun to resettle in the United States, and some have come to Wisconsin, which has a proud tradition of welcoming refugee populations.

However, while most fled Laos, it appears that remnants of former Hmong insurgent groups and their families, who once fought with the CIA and the Royal Lao government, remain in remote areas of Laos. The Lao leadership refuses to acknowledge that these groups exist. In a speech on January 27, 2004, then-U.S. Ambassador to Laos Hartwick stated that Laos needs to make progress in human rights and should find a humanitarian solution to the people still hiding in Laos' jungles. He actually stated:

> Remnants of former Hmong insurgent groups who once fought on the side of the Royal Lao Government some 27 years ago, still hide deep in the Lao forest, afraid or unwilling to come out. The Lao leadership is unwilling to acknowledge publicly that these groups exist, nor to explain in detail to the international community the amnesty policy Laos has had in place for years to encourage peaceful resettlement. Much more needs to be done. Only improved cooperation and dialogue among the Lao authorities, the forest people leaders, and those outside of Lao borders who encourage this standoff can resolve this tragic situation that continues to claim innocent lives and fuel bilateral tensions . . . My government and the international community stand ready to assist in resolving this complicated issue if requested by the concerned parties.

An article in Time Asia from September 20, 2004 reiterated that thousands of Hmong ''remain trapped deep inside the mountains, playing a deadly game of cat and mouse with the government.

Recently, my constituents have informed me that attacks have only escalated against the Hmong in the jungles by Laotian military forces. I want to highlight some of the examples of these disturbing reports.

Amnesty International in October 2003 reported that the Lao Government was using ''starvation as a weapon of war.'' They reported that the Lao military had surrounded several rebel groups and their families and was preventing them from foraging for food they need to survive. Amnesty International stated that they were gravely concerned by the ''sharply deteriorating situation of thousands of family members of ethnic minority groups, predominantly Hmong, involved in an armed conflict with the Lao military in jungle areas of the country.''

Following this report, I wrote a letter with other Senators to the Ambassador of Laos, bringing his attention to the Amnesty International report and asking the government to investigate the treatment of Hmong in the jungles of Laos, and to permit international monitors and humanitarian relief agencies to provide food and medical supplies. The Lao Ambassador dismissed the Amnesty report outright, and the Lao Government refused to investigate the claims.

In a Time Asia article from May 5, 2003, journalist Andrew Perrin wrote of his journey to visit a group of Hmong deep within the jungles in northern

Laos and spoke of the Hmong being hunted down and trapped by Lao military forces. He wrote this ''ragtag army with wailing families in tow'' was ''completely surrounded by the Lao government troops that hunt them.'' He goes on, ''What is the crime this ragged bunch has committed? It is simply that they are Hmong, mostly the children, grandchildren or even great-grandchildren of fighters who in the 1960s sided with the U.S. to fight communism in Laos during the Vietnam War . . . The communist Pathet Lao movement . . . has never forgotten the Hmong's complicity with the Americans.''

In another article from Time Asia on June 30, 2003, Andrew Perrin again highlighted the plight of the Hmong, stating, ''In Laos, no political dissent has been allowed in 28 years, nor any right of assembly. Scores of political prisoners and youth have been detained for years in dark cells without trial; many have been tortured. Christians are persecuted, told to denounce their faith under threat of imprisonment'' and Hmong women and children are ''trapped in the mountains, starving, shot at and dying in droves.'' He continued, ''Most of this brutality passes unnoticed or uncommented upon by Western governments, because Laos does not register on their radar.''

Well, it registers on my radar and the radar of my constituents. However, it appears that this brutality has gone unnoticed by some members of Congress who wish to move forward on normal trade relations with Laos. Do these reports not give some of my colleagues any hesitation about granting normal trade relations to Laos at this time?

Also in June 2003, in a highly publicized case, the Lao government arrested a Hmong-American and two European journalists for visiting Hmong in restricted areas of Laos. According to reports, they received a 15-year prison sentence following a two hour trial, demonstrating the flawed judicial process in Laos. After intense diplomatic pressure, they were released. According to an AFP report, one of the journalists stated, ''Everything was decided in advance. It was a total mockery of justice, a parody . . . At one point we had black hoods on our heads and were handcuffed . . . They said we were carrying drugs and weapons, they were all lies.'' However, the Lao citizens apprehended with the three foreigners were not so lucky. They remain in jail, having been sentenced to between 12 and 20 years. News reports indicated that they were tortured while in detention.

Even the United Nations has been unsuccessful in getting answers from the Lao Government regarding human rights violations in Laos.

In August 2003, the United Nations Committee to Eliminate Racial Discrimination strongly criticized the Lao People's Democratic Republic and expressed its grave concerns regarding reports of human rights violations, including brutalities inflicted on the Hmong. The committee ''expressed its grave concern at the information it had received of serious and repeated human rights violations in that country; was extremely disturbed to learn that some members of the Hmong minority had been subjected to severe brutalities; deplored the measures taken by the Lao authorities to prevent the reporting of any information concerning the situation of the Hmong people . . .'' The committee ''urged the state party to halt immediately acts of violence against the Hmong population.''

In March 2004, an Amnesty International reported that large numbers of ethnic Hmong rebels and their families had emerged from jungles of Laos and surrendered to authorities in at least two areas of the country. The U.S. State Department confirmed these reports, believing that anywhere from 350 to 700 Hmong surrendered to Lao authorities and were participating in a Lao amnesty program. However, the Lao government has denied the existence of an amnesty program. Furthermore, some of my 26 constituents have raised fears that these Hmong did not actually surrender, but were captured and in some cases summarily executed. Several colleagues and I urged the administration to pursue increased international access to monitor this issue under United Nations auspices. In addition, we urged the State Department to investigate the allegations and gain access to the Hmong emerging from the jungles.

Following these reports, in March 2004, I contacted the U.S. Ambassador to the UN with other members of Congress, asking for his assistance in urging the United Nations to send a representative or fact-finding 27 mission to Laos to monitor the treatment of the Hmong. In addition, I also wrote Secretary Powell with other members of Congress to investigate reports of atrocities and to take further action to protect the Hmong.

In a letter of response, Ambassador Negroponte informed my office that both the Embassy and the United Nations Development Programme—UNDP—continue to urge the Government of Laos to address this humanitarian issue in a peaceful and transparent manner, and have asked the Lao government to provide access to the areas where these people are seeking assistance.

It seems that no access was granted. In addition, in my response to Secretary Powell's letter, the U.S. State Department informed me that they too shared our concern about the treatment of Hmong living in remote areas and that they were seeking access to these people in order to learn about their status firsthand. Furthermore, the State Department informed us that Secretary Powell wrote to Lao Foreign Minister Somsavat, requesting that the Lao government allow the U.S. embassy and UN or other international organization 29 personnel access to these groups. The Foreign Minister never wrote Powell back. The Foreign Minister never even responded to our Secretary of State at all. Now Congress wants to grant normal trade relations to Laos? Why would we reward the misbehavior and human rights abuses of this regime?

Most recently, in September 2004, Amnesty International, CNN and other news sources reported on a recently released video, which documented the murder of five Hmong teenagers in Laos, allegedly by Lao military forces. Amnesty called these attacks war crimes. The children aged between 13 and 16, were murdered while foraging for food near their camp in Laos in May 2004. According to the reports, the 4 girls were raped prior to being killed. Not surprisingly, the Lao government initially dismissed the allegations, calling the tape a fabrication. After intense pressure by the United States State Department to launch an investigation, the Lao government stated that they undertook an investigation and were not able to find any evidence of a confrontation between the Lao military and these Hmong teenagers. But they have refused to make their report on the incident public.

Mr. President, Michael Vang of California and Houa Ly of Wisconsin, two United States citizens, were last seen near the border between Laos and Thailand in April 1999. We do not know what fate they met in Laos. Joint U.S.-Lao investigations were unable to find them. The Lao government needs to make greater efforts at finding these two men.

While we in Congress cannot verify every allegation, the information we receive from journalists, human rights organizations and our constituents is incredibly disturbing and cannot be disregarded. We just do not have enough information. But, the Lao government does not help us find the truth by restricting the international community from getting any more information.

Despite all of the Lao government's stonewalling of our inquiries and the flood of reports of human rights violations by the Lao government, this Congress is now about to grant normal trade relations to Laos. Why now? Why do we choose to reward this oppressive and brutal government when they have not adequately responded to our concerns? When the Foreign Minister of Laos has not even responded to Secretary Powell's letter to his government, requesting more information? If these allegations are untrue, as they claim, then why does the Lao government not allow international monitors into the areas where the Hmong are living?

But our concerns go unheeded, and we continue to be confronted with the most horrific accusations about conditions in Laos with no way to respond. We should not be giving Laos NTR, when they refuse to open to us in meaningful ways.

The Lao government must assure the international community that they are

attempting to address the problem of these men and women and children in the jungles of Laos through a humanitarian solution. The Lao government must allow international humanitarian organizations to have access to areas in which Hmong and other ethnic minorities have resettled, to allow independent monitoring of prison conditions, and to release prisoners who have been arbitrarily arrested because of their political or religious beliefs.

The U.S. has an obligation to the Hmong people, and I strongly believe that we have a moral interest in reducing human suffering and protecting human rights abroad. We cannot ignore these allegations of atrocities in Laos. Granting NTR is not appropriate at this time. I urge my colleagues to join me in insisting that the conference report before us not be used as a Trojan horse to sneak through a provision that conflicts so fundamentally with our country's dedication to human rights, to democracy, and to fundamental decency.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to be able to proceed as in morning business for 30 minutes.

Mr. FEINGOLD. Reserving the right to object, I certainly will not object, and I look forward to hearing the remarks of my colleague, the Senator from Oklahoma, whom I have enjoyed serving with very much, especially on the Budget Committee, and simply indicate to the Senate that I intend after this to get back to the business of debating the pending issue. But with that, I do not object.

Again, I commend the Senator on his wonderful service to this body.

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

FAREWELL

Mr. NICKLES. Mr. President, I thank my friend and colleague for his consideration.

My wife and I, our families, were taking our Christmas photo a few days ago and I was surprised to realize that our two oldest children were actually older than we were when we came to the Senate. They are in their thirties and I think I was 32 when I was sworn in, just turned 32, and now we have a couple of children who are that age or more. It tells me we have been here a little while. I am actually very surprised that I am concluding 24 years in the Senate.

I have absolutely loved working in the Senate. The Senate is a great institution. It is one of the true pillars of democracy in the world, one which people look to with great respect and admiration. I have always been proud to be called a Senator and I have always been proud to represent my State and my country. To me, it represents a shining city on a hill, and a true beacon of democracy for the free world which has stood for more than two hundred years.

My first time to visit the Senate and sit in the gallery was in 1974 and I was coming to Congress as a businessman to give my impressions on a bill that was pending before Congress. The bill was called ERISA, Employment Retirement Income Security Act. I ran a small business in Ponca City, OK, and I thought the better title for the bill was ''Every Ridiculous Idea Since Adam.''

But that was in 1974. I happened to be here, it was a coincidence at the time, and Senator MCCONNELL will appreciate this, being a political historian, it was a time when an election was contested and it happened to be the Senate election of Oklahoma. Henry Bellman, was reelected by a very close margin over Congressman Edmondson. As all of our colleagues know, the Senate is the final arbiter in contested elections and it was being contested on the floor of the Senate the time I was here.

Senator DOMENICI remembers that. It was a very contested, spirited debate.

I was quite taken by the debate. I sat in the gallery for hours. I remember Senator ALLEN, a Democrat. The Democrats controlled the Senate at that time. Henry Bellman was a Republican. He won by a very narrow margin—I can't remember what it was, a couple thousand votes. There were disputes on election-counting machines. That sounds kind of familiar. It was a great debate. I remember Senator ALLEN spoke on Senator Bellman's behalf, and then they had the rollcall vote and enough Democrats voted with Senator Bellman, and that was the end of it.

I happened to ride back on the plane that day, and guess what. I was riding with Senator Bellman and Congressman Edmondson. They were friends and they were shaking hands. I was impressed. And I was impressed with this body. I was impressed with the Senate. I was impressed with the Senators. I was impressed with the conduct of the debate. I was impressed with the fact that almost all Senators were here during the debate.

It was such a special occasion. I was so pleased because Henry Bellman was reelected and affirmed by the Senate because I also considered him a mentor and a leader in Oklahoma. He was the first Republican Senator elected in our State in a long time and now he was reelected. Senator DOMENICI served with him on the Budget Committee. He was the ranking Republican on the Budget Committee, on the formation of the Budget Committee in 1974. I served with Ed Muskie and he did a wonderful job in that capacity.

That was my first, personal impression of the Senate. My impression of the Senate was very good then and it has been very good ever since. I have absolutely had the greatest respect for this institution and for this body. This body is composed of great Members.

I remember the time coming into the Senate when I was elected. It was 1980. That was a big election year. We have had a few big election years in my time, but I'm not sure we have ever had one quite as big, as dramatic a change as we did in 1980. There were 18 new Senators elected in 1980, and 16 of the 18 were Republicans. The majority leader became Howard Baker from Tennessee. He was nice enough to be my mentor, and I thought the world of him then as I still do today. He is a wonderful Ambassador to Japan, and he and Nancy Kassenbaum were wonderful Senators. It was a great time to serve in the Senate.

I remember the highlight of my Senate career was on Ronald Reagan's inaugural day on January 20, 1981. It was a beautiful day, and I remember the hostages in Iran were released that very day. They were held hostage for 444 days. They were liberated on that inaugural day. I will never forget what a euphoric feeling it was for not just those of us who were elected to the Senate and taking control—the Republicans were taking control of the Senate for the first time in decades. I think none of those Republicans had ever been in the majority, and I don't believe any of those Democrats had ever been in the minority.

That was a big change. It was kind of a fun change from my vantage point. There was so many new people. I was one of 18 new Senators, and it was a great time. That was a big turnover any time in this institution. To think that the hostages were released and Ronald Reagan was elected—it was a big exciting time, and a lot was accomplished.

I was coming to Congress as a businessman from Ponca City, OK, with an agenda. Part of the agenda was not to be here forever. Frankly, I told people I was running because I thought our country had declined far too much militarily, economically, and morally, and I wanted to do something about it.

I came here to cut taxes and to cut regulations, particularly in the energy industry, and to see if we couldn't make positive changes for the country. Economic issues aside, I wanted to defeat the Communists. This was of particular concern to me, as I thought our country had declined way too much militarily.

We did a lot of those things. We accomplished a lot in the 1980s under Ronald Reagan's leadership. I am absolutely amazed when I look back at when Ronald Reagan was elected, and when I was elected. The maximum tax rate was 70 percent, and 8 years later it was 28 percent. I am still amazed at that. What an unbelievable accomplishment. I remember how it was accomplished. It took a lot of strong

leadership and work by Howard Baker and Bob Dole. It took working with other people. I remember Bill Bradley working on some of these tax bills. That was a big change.

I came from a business background and, oh, yes, if you made some money, you can be taxed all the way to 70 percent on the individual side, and 80 percent on the corporate side. You were working more for the Government than you were yourself. To me, that represented a real loss of personal and economic freedom. I wanted to restore economic freedom for all Americans and be part of that change.

My father, unfortunately, died in 1961. We had a small family-held business. The Government contested, basically, my mother and our family for 7 years over the value of Nickles Machine Corporation. They wanted a big chunk of that business. I always resented that. I thought Government was supposed to protect private property; not confiscate it.

On the 1981 tax bill, I remember talking to Secretary Don Regan when I said: We really should eliminate the estate tax on surviving spouses—and we made sure that was included in the 1981 tax bill. I am probably as proud of that as any other thing. I had a little something to do with a very profamily, very probusiness, very progrowth-oriented bill becoming law. That success told me that we could accomplish great things here.

Of the 18 Senators who were elected with me in 1980, there are only 3 left. CHRIS DODD is still here, CHUCK GRASSLEY is now chairman of the Finance Committee, and ARLEN SPECTER will be chairman of the Judiciary Committee. Only 3 of the 18 are left.

I respect them greatly, and I compliment them for their many years of service.

Over the years, I've had many great mentors. I mentioned Bob Dole and Howard Baker. I'll mention one other one with fond affection. That would be Senator Jesse Helms. I remember one time when we were engaged in a filibuster, and I encouraged the Senate not to have many filibusters, but that is the first one I can remember. I believe it was 1982 or 1983. This was a little filibuster on the Nickles gasoline tax. Some of us believed that the States should do it rather than the Federal Government. Three of us were opposed to that: Senator Helms, Senator East, and myself. That was when the filibuster was a real filibuster. We spent the night on cots outside the Senate Chamber.

I remember laying awake at night somewhat nervous. The heart was still beating, and I remember some grumbling amongst some of our colleagues who weren't very happy about the fact that we were here in late December arguing over a Nickles gasoline tax. I remember that this wasn't quite worth falling on the sword over.

I communicated that to my friends and colleagues, Senator Helms and Senator East. I eventually convinced Senator Helms, and it took a little longer to convince Senator East, and we dropped the filibuster.

What I wanted to say about Senator Helms is I remember that we had a lot of discussions during these times. We were actually in session two or three nights around the clock. He told me something I will never forget, which I will pass along to our colleagues.

He said: DON, when I am flying over North Carolina and I look around and see all those lights, I am amazed at how many people live in that State and how many people there are, particularly in rural areas. And I wonder if those people think they have anybody in DC who really cares about them, and probably most of them don't think anybody cares about them. He was just as genuine as he could possibly be.

When I am on a plane at night looking out at the lights and see how big our cities, towns, and rural areas are, I think about that. Do the people in those areas really think somebody is fighting for them, working for them? Jesse Helms is one of those individuals. He is very special. He had a reputation of being kind of tough and mean, but personally he is probably one of the nicest Senators with whom I have had the pleasure of working. He knew everybody who worked the elevators. He was nice to the staff. He was a gentleman's gentleman. I understand his health is not real good right now, so my thoughts are with him, and I wish him all the best at this time. He was a great Senator. He knew the rules of the Senate, and he would fight for what he believed in, and he would fight with tenacity. He also was a Senator's Senator, and I'm am fortunate to say I have had the pleasure of serving with many colleagues who fall into that category.

I came here with a real interest in trying to change things in the energy field. I served on the Energy Committee, but I wanted to make some changes. I ran and maybe was elected in large part because of some of the things that Congress was passing in 1978 and 1979 and 1980 with which I just totally disagreed. One of those was the windfall profits tax. I campaigned vigorously against it. I wanted to repeal it. I was disappointed that I couldn't get it repealed in 1981, or in 1982. I introduced legislation every single year. We finally got it repealed in 1986.

As I told somebody last night, it was $77 billion too late. But eventually it was repealed.

We did some other things that I think were very positive—undoing some of the things that were passed in the last couple of years of the Carter administration.

We deregulated natural gas. I did that working with Wendell Ford and Bennett Johnston on the Energy bill. That was very positive, significant legislation that one of my predecessors, Bob Kerr, had worked on 20 years before. We got that done.

We repealed the fuel use tax. We eliminated the Synfuels Corporation. The Synfuels Corporation was run by an Oklahoman who ran against me, Ed Nobel. He ran against me in 1980. Ronald Reagan appointed him chairman of the Synfuels Corporation. I campaigned to eliminate it, which we eventually did.

I have had a lot of fun in this capacity. In the mid-1980s, I was appointed to the Appropriations Committee. I have great, fond memories of that. The Democrat leader, HARRY REID, was my colleague on two or three committees. I think we both were either chairman or ranking, and we switched back and forth a couple of times on the District of Columbia Appropriations Committee, our penance, and the Interior subcommittee, which either Senator REID or Senator BYRD was chairman and/or ranking members. We worked together on those committees for years.

We did a lot of good things together, such as reforming the frank so you couldn't mail out thousands and thousands of pieces of mail, particularly prior to election time.

HARRY REID is my friend and his word is as good as gold. He will be a good leader for the Democrats, and he will be a good Senator for Senator FRIST and Senator MCCONNELL to work with to get things accomplished. So I am excited about his elevation.

I was selected by our colleagues to be campaign chairman back in 1989 and 1990, one of the tougher jobs. I compliment GEORGE ALLEN for the fine job he did this year. I compliment BILL FRIST for the fine job he did in that position, and MITCH MCCONNELL when he had that position. It is probably one of the toughest elected positions we have in leadership, but one which I thoroughly enjoyed. The reason I enjoyed it is you work hard, and you get to know your colleagues. We get so busy around this place we often don't get to know our colleagues. If you are campaigning with somebody, if you are spending the night, as I did at Gordon Smith's home in Oregon, or campaigning in Maine with Senator SNOWE or Senator COLLINS, or if you are campaigning in Minnesota, or when you campaign with people and you are traveling with them for a day or two, or in Montana on a bus tour with CONRAD BURNS and his wife Phyllis, you get to know them.

I have gotten to know our colleagues well. I think I have been in almost everybody's State, at least on our side of the aisle, campaigning. I thoroughly enjoyed getting to know my colleagues. The Senate is composed of a great group of individuals, Democrats and Republicans, and we need to get to know each other better. I think if we get to know each other better, our body works better and we will do better.

After that, I was fortunate enough to be elected policy chairman. I had that position for 6 years, and it was another job I absolutely loved. I succeeded Bill

Armstrong, and I was fortunate to keep some of his staff, some of the best staff on the Hill, I might add. They stayed with me, and I appreciate that. Eric Ueland and Doug Badger would fit in that category, and they were outstanding.

Bill Armstrong is another one of my mentors. I met with Bill Armstrong and a couple of other Senators in a prayer group once a week for 12 years. He is probably the most articulate Senator I have had the pleasure of serving with, an outstanding leader. I wish he would have continued his service. He decided to return to the private sector, and since I am doing that, I respect that greatly. But I have always looked up to him because he was a man of conviction, and he got things done.

Let me add, JON KYL who is now the policy chairman, and there could not be a better policy chairman, is doing a fantastic job, a very important job. I compliment him for his leadership.

After that position—and I thank my colleagues for giving me that responsibility—I served 6 years as assistant majority leader, and I guess at some point maybe assistant minority leader. It was a great honor and a pleasure to work with TRENT LOTT, which I enjoyed greatly. TRENT did a fantastic job as our Republican leader, and I'd like to take this opportunity to commend him on his outstanding service. MITCH MCCONNELL has my old post now, and he is doing a super job. Again, it is a position where you get to know your colleagues really well. You not only learn how to count votes, but you find out what makes people tick and where they are coming from, what they are trying to accomplish, and what they are trying to do. And MITCH MCCONNELL is doing a fantastic job in that capacity.

During my tenure in the Senate, we have had the pleasure of passing a lot of legislation. I am fortunate to have so many colleagues who have helped me do some things that I think have become good laws.

The Republicans took control of the Senate in the 1994 elections, and in 1995 I think the first bill we passed was the Congressional Accountability Act that Senator GRASSLEY and a lot of Democrats and Republicans passed. We worked hard on that. I am glad to see that happened.

We passed the Congressional Review Act that Senator REID was my principal Democrat sponsor on, where we could review expensive and expansive Federal regulations. We actually used that to repeal the ergonomics rule which the Clinton administration tried to pass in the last couple of days of their term. Although he supported the regulation, Senator REID, to his credit, defended the Congressional Review Act which is still the law of the land. We used that to repeal what I felt was a very intrusive, expensive, and unwarranted regulation. Again, that is another case where Senator REID stated—he did not agree with repealing the regulation, but he defended the law we repealed it with, and some people were trying to undermine that.

Senator LIEBERMAN and I passed the Defense of Marriage Act, an act that became a little more noteworthy in the last year or two. I thank Senator LIEBERMAN for his help and leadership on that issue. Bill Clinton signed that bill. I am not sure he wanted to, but he did sign it in the wee hours of 1996. That act is still the law of the land. It basically says States do not have to recognize other States' legalization of same sex marriage. Some States have legalized gay marriage, which is their prerogative, but due to our bill other States do not have to recognize that. Some people presume that it will be declared unconstitutional. I hope it is not. I would be disappointed if the Supreme Court did overrule that. That bill passed with 80-some-odd votes in the Senate and still is the law of the land.

We passed the International Religious Freedom Act. Again, I say ''we.'' Senator LIEBERMAN joined me in passing that bill. We passed that in 1998, and it is now the law of the land. It is very important that we note countries that are very repressive and oppressive in stifling religious freedom. Unfortunately, we have seen such oppression in many countries around the world. That kind of bigotry is the genesis of a lot of the hatred and violence and the wars we are fighting today.

We have ensured, with the passage of this act, that the State Department will be much more proactive in not only identifying cases of religious intolerance and persecution, but will take proactive steps to change such behavior as a matter of U.S. policy.

Senator LANDRIEU and I passed, in 2000, the Child Citizenship Act, which basically grants citizenship to foreign born children who are adopted. I think 150,000 children became citizens in one day as a result of that act, and I am greatly pleased to have been a part of that success.

I have had the pleasure for the last couple of years of being chairman of the Budget Committee. I look back at some of our accomplishments, and I have to think maybe those were some of the best in my career as a Senator.

The budget we passed in 2003 was a real challenge. We probably spent more days, more hours, and had more votes on the 2003 Budget Act than any other Budget Act in history. I think we had 80-some-odd votes. It took more than a week. It took about a week and a half, almost 2 weeks, on the floor.

I compliment Senator ZELL MILLER for his assistance in that. We passed that budget with the Vice President breaking the tie. That was not easily done. We defeated numerous amendments, and were successful in passing a budget that allowed us to have the opportunity to have an economic growth package. President Bush was nice enough to ask me to introduce the package and to try to carry it, and we did. Again, ZELL MILLER was the principal cosponsor with me of the bill, the growth package. We introduced that package in January of 2003. We passed it in June of 2003.

When we first took up that legislation, the Dow Jones was at about 7,700. Today, the Dow Jones is over 10,500. We wanted to pass that package so we could stimulate the economy because it was, at that time, pretty anemic. Government receipts were still down. We wanted to get something to grow the economy. We passed that package, and not only did the stock market go up, receipts are up, and we have created a couple million jobs since then.

We accelerated the tax cuts that were slowly being phased in from the 2001 tax bill. So now we have a maximum rate of 35 percent. Although some people say that is too much of a giveaway, it is the same rate the corporations pay, and I do not think individuals or self-employed people should pay a higher rate than Exxon or General Motors. So we passed that.

We also passed a 15-percent tax on capital gains and a 15-percent tax on corporate distributions, dividends, which I firmly believe has greatly helped not just the market but the economy. So I am proud of that.

I am proud of ZELL MILLER because he had the courage to be a cosponsor, to stand up and fight for those things and make them become law. It also made a $1,000 tax credit per child become law. It also eliminated or greatly reduced the marriage penalty on married couples. If they have taxable income of $58,000, that is $900 of tax relief. Those are positive things. It would not have happened without ZELL MILLER.

ZELL MILLER only served 4 years in the Senate. He replaced a very dear friend of all of ours, Paul Coverdell. I mourned Paul Coverdell's loss, and I stated at the time he cannot be replaced; and he certainly cannot be replaced. But ZELL MILLER has been one outstanding addition to this body. He is a great patriot, not a great Democrat or a great Republican, he is a great patriot, and he stands for what he believes in, and he helped us enact these measures which are vitally important.

I also read in the Washington Post today that somebody said, well, the Budget Act is not working, and so on, and there is no discipline in Congress. Frankly, they don't know what they are talking about. I hate to tell them that.

They also said we did not pass a budget this year. Well, they don't quite know what they are talking about there either. In the last 2 years, thanks to the collective will of this body, we have made 82 budget points of order—in the last 2 years—78 of which were sustained. I voted to waive a couple of them. We defeated $1.7 trillion of additional spending over a 10-year period on those 78 budget points of order.

The Budget Act did work. We passed a budget through the Senate earlier

this year that had domestic discretionary spending at $821.9 billion.

I am confident that when the leader brings up an Omnibus bill this year, it is going to meet that goal of $821.9 billion. That is several billion dollars less than a lot of people wanted.

I thank my colleague, Senator STEVENS. I have wrestled with him every day on appropriations bills. But Senator STEVENS helped us pass the 821.9 cap on the DOD Appropriations bill. I could not get the budget resolution to pass. We passed it through the Senate and through the House. I could not get the conference report adopted. That was one of my disappointments.

One of our accomplishments, as most people didn't know, was we did put in the spending cap on the DOD Appropriations bill and we are enforcing that cap and we are abiding by that cap today. So I wanted people to know that. I also thank people such as THAD COCHRAN and Senator SPECTER, because they enforced the cap as chairmen of their respective Appropriations subcommittees, probably more than anyone. I didn't have to make the points of order; they did it. It worked. We have nondiscretionary and nonhomeland security growing at less than 1 percent this year, compared to a 14-percent growth a few years ago in President Clinton's last years. Yes, we are spending a lot of money in defense and homeland security, no doubt about it.

Are the deficits too high? You bet. Are they coming down? You bet. The deficit this year was finalized at 400-something, over $100 billion less than the administration projected 9 months ago; and that is because revenues are up and the economy is growing. The changes we passed in 2001 are working significantly.

I project, and CBO projects, they will continue to climb by another $100 billion in the next year or so. Is the war expensive? Yes. Is it worth it? You bet. Is the war on terrorism worth it? Yes.

Earlier this year—I would say this was a real highlight—I went to Iraq and Afghanistan with Senators SESSIONS and LIEBERMAN. I have done a lot of things, and I have been to a lot of places around the world, but I cannot tell you how proud I was to be in Iraq, basically when there was a transition of power, when Mr. Allawi assumed control of Iraq.

We met with the Defense Minister and he said: Yes, we want to protect our country. When we met with our military leadership and theirs, we were in the process of training 210,000 Iraqis, and we had a chance to meet with Iraqis there that are hungry for freedom and thankful for our support and eager to assume and take control.

They are talking about elections in January, and I am hopeful and prayerful that those will be successful. I believe they will be. Senator SESSIONS and I also went to Afghanistan and met with now-President Karzai. It was around July 4. They were scheduled to have elections in October. They did that and he was elected overwhelmingly.

The success we have had in Afghanistan has been absolutely phenomenal. I remember well the debates here, with many people saying: You are going to be involved in a quagmire; you will never be able to have democracy. You cannot get in there. The Soviets were there 10 years and lost tens of thousands of troops. You are going to do the same thing.

Frankly, our military was successful, working with the Afghan northern alliance and other Afghan people who wanted freedom in Afghanistan. We basically helped them take control of that country with a few hundred troops on the ground and our Air Force. We have liberated Afghanistan. They have had elections and they have proved they can have a democracy. They will have parliamentary elections early next year.

So the success we have had and have seen in Afghanistan is restoring freedom to millions of people there. I believe we are in the process of restoring freedom and liberating the Iraqi people for the long run so the Iraqis can control their own destiny. If you look at those things, we have had an outburst, an outgrowth of freedom.

Abraham Lincoln said in the Gettysburg Address:

> This Nation under God shall have a new birth of freedom.

This country is largely responsible for not only this country having a new birth of freedom, but frankly countries throughout the world, in our own hemisphere and in the former Soviet bloc, and now even in places as remote as Afghanistan and Iraq. To have been able to play a small part in that over these last 24 years has been a real pleasure.

I thank my constituents, the people of Oklahoma, for giving me the opportunity and the privilege to serve them for the last 24 years. I thank my family, and especially my wife for her tolerance in allowing me to do this for the last 24 years. I thank my colleagues who I have had the pleasure of serving with and working with and the pleasure of knowing. Frankly, my best friends are my colleagues. I have spent a long time here and I have absolutely loved this work. I love the Senate.

I think the Senate is in very good hands. My replacement is Dr. TOM COBURN. I am honored that an active physician would leave his career and serve in the Senate. We have not seen it often. We saw it with Dr. BILL FRIST, and I am so grateful that he set aside his career as a talented physician to serve in the Senate. I am delighted he is the majority leader. He has done a fantastic job. I am delighted Dr. COBURN has left his profession to serve in the Senate. What a great addition to the Senate. I have had the pleasure of working with JIM INHOFE, and I see JIM and TOM COBURN doing an outstanding job in representing our State.

I look at the leadership in the Senate today with BILL FRIST, MITCH MCCONNELL, JOHN KYL, and the rest of the team on this side, and with HARRY REID and others on the Democrat side, and I see good things ahead for the Senate, positive things.

I have been so fortunate also to have what I have often said are the best staff on the Hill. I have truly been blessed. I have many staff members who have been with me for a long time.

Looking to my left is Bret Bernhardt, my chief of staff, who has worked with me for over 20 years. Hazen Marshall came in as an intern many, many years ago, and he is now chief of staff on the Budget Committee. Nobody knows the budget or taxes any better than Hazen Marshall. Both of these men are true professionals.

I have so many people to thank. I cannot go down the whole list. I will recognize some who have been with me for over 20 years. In my Oklahoma City office, there is Joey Bradford, who worked for me going back to Nickles Machine Corporation in 1978 to 1979. She is still with me. She will be the last person to turn out the lights. She is a wonderful person. Jo Stansberry goes way back. She was my secretary when I was a State senator in 1978, bless her heart. She is the sweetest person you will ever know. She is still with me today. Also, in my Oklahoma City office, Judy Albro and Maurie Cole have been with me almost the entire time. Sharon Keasler has been running my Tulsa office for over 20 years.

In my DC office, Zev Teichman and Cynthia Singleton have been with me the entire time.

They are wonderful people and true public servants, all of whom could have done much better financially on the private side, but they have stayed with us on the public side, as well as many others.

I look at our staff and we still have most of the staff still with us. I am grateful for that. They are all anxious about new careers, and they have been generous with their time and very loyal in their support, not just to me but to the people of Oklahoma and to this institution called the Senate. The Senate is a very special place.

I also would be remiss if I didn't acknowledge two or three other people who have had a profound and positive impact on my life. One is Doug Coe. Some of our colleagues know him very well. Doug Coe was a friend, brother, and mentor whom I respect and love greatly. He is also a golfer, and that is my favorite vice, I guess. Most golfers play for a little money. Doug would say, ''I will play you for a Bible verse.'' We would do it and, of course, I would lose—predestined from on high. I will never forget when Doug said here is a verse for you to memorize. It was, I think, John 13:34: ''A new commandment I give to you, that you love one another; as I have loved you, that you also love one another.'' He made me learn that. I learned it in, I think, about 1981 or something. He has been a very positive guiding light. I have tried

to keep that commandment in my heart when I am on this floor and conducting my business, and it is good advice. I wanted to thank him.

Also, I will mention a couple other people. One is Dick Halverson, the first Senate Chaplain with whom I had the pleasure working. He was maybe one of the most Christlike persons I have ever known. Lloyd Ogilvie, who succeeded him, was a great mentor. He led many of us in our Bible studies for years. He is a wonderful, wonderful brother and friend. And now Barry Black. Barry Black, when he was giving the prayer today, said we may seek to accomplish causes beyond our lifetime. And he is so right. That is what the Senate is about. It is about causes. It is about things that can have consequences, that can have real meaning beyond our lifetime eternally.

So I thank God for the opportunity and the privilege and the pleasure to serve in this great body.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

TRIBUTES TO RETIRING SENATORS

DON NICKLES

Mr. FRIST. Mr. President, on leader time, I want to make a few comments in tribute, not in response, to the great man we just heard on the floor of this institution. Over the last several days, all of us have taken that opportunity for three of our colleagues on this side of the aisle and others on the other side of the aisle, to reflect on the past and how people have affected us directly.

All of us have prepared remarks, and we have taken the opportunity to read them into the RECORD or enter them into the RECORD. What we just heard does reflect in many ways why so many of us have such strong feelings about DON NICKLES and his family—Linda and their children.

For me, it boils down to two general areas. One is the tremendous respect he has and continues to have and will always have for this institution. He literally reveres this institution. We heard it in his words today, the way he closed referring back to Chaplain Barry Black's opening this morning where causes beyond our lifetime is the essence of this institution, and he has captured that in his 24 years in the Senate—respect for the institution, for its traditions, for its values, for its rules, for its precedents, all of which he has manifested.

The second general area when I think of DON is his wise counseling that he has been able to reflect in different ways to each and every one of us. For me, it is the National Republican Senatorial Committee. When I was first thinking about running, I went directly to DON NICKLES because in the early 1990s he developed a model which was revolutionary at that time which really did go to what happens at the grassroots, and it applied both in terms of politics and fundraising. That model is one that has come full cycle.

One thing he did not mention directly but touched me in a very special way is what he did 2 weeks ago, and that is run, whether it is marathons or short races or out for a daily jog—I call it a jog; he actually runs. But for about a year, at least once a week, sometimes several times a week, we ran together with a few Senators—I think there were more than two—a few Senators, but more than that, about 8, 9, 10, it got up to about 14 other people who every morning at 6 o'clock would take off and go initially for 30 minutes, an hour, an hour and a half, 2 hours, 3 hours, and DON kept going. But those are my memories.

What is interesting is that of the people running with us, there were some new people, but then there were also people who had done this for years and years, and those rich relationships were played out on the floor of the Senate or with his golf, which everybody knows about, or the running, which is touching me.

A few weeks ago, he ran in the New York City marathon. He ran it by himself. He probably ran it in 3 hours. I would go much longer than that. I was back here, but I was really with him, thinking of him when he was going to be taking off and at each of those miles, as you run through those boroughs. I was really with him because it brought back memories of us spending time together.

That was for, again, a cause that goes beyond our lifetime because our running and the group that he put together was for an effort that Linda, his wife, I think introduced him to, the Lombardi Cancer Center. Again, it shows how everything comes together, in ways beyond going out to have a good run and working for this greater cause.

He mentioned getting to know each other. In terms of counseling to me, directly or indirectly, you cannot go anywhere in this town without DON NICKLES being recognized, without him having touched or having a relationship in some special way over the last 24 years, and counseling in terms of the prayer breakfast. DON NICKLES was there every single week, and the Bible studies again touch me directly in that those few moments every week we have the opportunity to come together and share.

He mentioned the positive and guiding light of Doug Coe in the same way he has touched us in those prayer breakfast meetings.

He mentioned the budget, again the wise counsel that he set in place that we will be using over the next several years as we look at tax relief, but also the impact it has had on the jobs and growth in this country.

I have to mention his overall optimism because there is nobody more optimistic in the Senate, even in very tough times, trying times. There were times dealing with the budget over the last 4 years that were tough, difficult, hard, challenging, especially in 2003. Even through all that, he was optimistic, upbeat, reaching out. He always knew there was some way to get the best out of people working together.

I will close by mentioning—and we had this conversation two nights ago—his overall commitment to family. Everything comes back to Linda and their four children—Don Nickles, Jr., Jenny Rossiter, Kim Nickles, and Robyn Nickles. Everything he does comes back through that unit, to Linda who has—he used the word ''tolerance,'' and it does take a lot of tolerance to put up with DON NICKLES, I am sure. Linda was there, I should also add, with support through every one of his endeavors.

It has been a real privilege for Karyn and me to get to know them and their entire family.

He used a Bible verse, his favorite Bible chapter, Galatians 5. The Apostle Paul lists a godly man's attributes. A godly man works hard, says Paul, lives a life of—the words that are key—love, joy, peace, kindness, goodness, and faithfulness. As we look at that string of words, those nouns, I cannot think of a better description of DON NICKLES.

So, DON, we will miss you. I say that recognizing all our relationships will continue to grow. We will clearly miss you on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, most Americans probably do not know the Senate is a continuous body. From the day the Founding Fathers established this marvelous institution up until today, it has never had a termination point. It goes on and on. Senator BYRD can tell us exactly how many Members of the Senate there have been. The last figure I heard was something over 1,500.

Candidly, a significant number of those probably did not make much difference. They filled the seats. They made sure the continuous body continued. But very few left any footprints on the sands of time. We have honored a handful out here off the Senate floor, people such as Henry Clay, Daniel Webster, John C. Calhoun, and just a couple of others.

I have been here now a couple of decades, a little bit less than my friend from Oklahoma. I can say without fear of contradiction, from the moment I got here until today, the Senator from Oklahoma has been a leader in this body. He has been involved in virtually every issue of consequence in the 20 years I have been here in some kind of leadership capacity or providing his inspiration or, as the majority leader indicated, his enthusiasm for getting a solution to the problems confronting America at that particular moment.

So I say to my friend from Oklahoma, he has left footprints in this body.

He is one of the great Senators in the history of our country. We will always

remember his service, and we wish him Godspeed in the coming years and look forward to seeing him again in his new capacity whatever it may be.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have not been coming to the floor for a lot of speeches about our fellow Senators, nor have I given very many as they are departing. I do intend to do that in the next few months for all of them, but I would not dare let this record go today without my having an opportunity to share some remarks with the Senate about the Senator from Oklahoma.

There is nobody here that has served on as many committees together as Senator NICKLES and Senator DOMENICI. We have been thrilled to work on the Energy Committee. He has told us the facts about energy. He has told us the impact that was made by that committee, and nobody can doubt that to have the Senator from Oklahoma come to that committee, having lived with the ridiculousness of the rules on natural gas, having him there was a great stimulus to change, once and for all—we did a little bit and we opened the floodgates—to give the country a great supply of energy called natural gas.

More important than that, he is one who takes an opportunity to come forth with an idea, with a cause, and set it forth when people do not even think it has a chance. All of a sudden it gathers some more momentum, and then it is a big issue, and nobody believes it but pretty soon it passes and becomes law. There are so many that we cannot talk about them. The Senator has talked about some of them.

When you came here, your senior Senator was kind of the opposite of you. He was a great hulk of a man. He was older than you by far. If he ever bragged, it was about being a Marine lieutenant tank commander. He used to look at me and tell me: Well, I do not know. This NICKLES is just too young. I am not sure he can do this job.

Well, I am sure he told you some of those things when you were running or preparing to run, but your youth had nothing to do with your success. You were going to get it done because you have a great capacity to lead and to work with people. It has been my privilege to have you as my teammate.

There is one thing for sure, this place does not succeed without people who have talent. We can all look that over and say it is not so, but it is so. You are a very talented man, but talent is not enough. You have to be loyal.

Senator NICKLES is the second most senior serving Senator on the Budget Committee, 20 years. I am the one who was goofy enough to serve more, but he was there during most of my time. Many times, Senator DON NICKLES did not get exactly what he wanted, but when it came to the time of getting something for this Senate that would permit us to follow that Budget Act, you never worried about DON NICKLES. He may have pushed and shoved and maybe held out to the end, but when the time came that you said, We have to do this, DON, he understood. That is because of what he just said here today. He really loves this place. He learned how to love it. He did not love it when he came here. He might have told his colleagues that he started liking it, but he did not love it the first few years like he does now.

I had the privilege once of nominating him for a leadership job. He will not ever forget that introduction because he was thinking I was not going to be speaking in behalf of him, but I surely was. I said something like, DON Nickles came here and he was just too young. Then I proceeded to say, however, I have never seen a Senator mature as much and as fast as he has in terms of acquiring the skills and the capacity and understanding to be a Senator, after which time I suggested that he should win that particular job he was seeking. He did, obviously. I did not have anything to do with it, but nonetheless that is sort of the way I saw him for the first 8, 10, or 12 years.

Senator, you never stopped. You never stopped growing, and I think to grow in this place, besides the qualities I have just described, you have to end up understanding what the Senate is.

I have heard you many times in the last part of your career talk about what a great place this is, and I really believe you understand it. I think you understand that it is not just some legislative body. You have many times cast your vote, done your work, chastised and begged, cajoled people to do things because you would tell them sometimes when it was urgent that this is the Senate and we cannot be all on our own. We have to be a part of this place, and sometimes you have to do things to make it work.

I commend you for all of that and the policies and philosophies that you brought here. We did not agree on some of them. We have not agreed on everything, but I say the Senate was better off for every single day that you were here, and it will not be quite as good until somebody comes along and fills your seat. As our distinguished whip said, it is a continuing place, and we will go on. But I honestly think there will be sort of a place here for you, and we will remember how you used to do things, and, yes, Senator, you will know how you grew in terms of working with the other side. I mean, all of a sudden you would have something and we would wonder what is going on, and you would announce your cosponsor and we would say, well, he started with something that was not going to work, but he has been working at it and it is going to work. I commend you for that. That is the end product of real growth and a real ability to get done what you thought was good.

So I will miss you and your wonderful family and your wife. You have been through some tough problems with the family just like many of us. You have come through it strong and robust, and your children are beautiful and successful.

As far as the prayer breakfast is concerned, you have stated this morning in beautiful terms, just as a matter of fact, with Doug Coe and other names, but I can remember talking to you many times about that, how it made you mature also in terms of your faith, in terms of how we prayed and how we did other things. For that relationship, I thank you. It has little to do with the Senate, but if it were not for the Senate, we would not have had that experience together.

So this is a good day because we get to say something about a great Senator, but on the other hand not so good a day because we say goodbye. He is young enough to honestly spend another 24 years here. I am 72 and I have been here 33 years, so I clearly could have left a while ago. Then I would be out there doing whatever you are going to be doing; I am sure you will have a lot more leisure time. You can hit the ball. Me, maybe I could play with my 11 grandchildren now, and growing.

Thank you, DON. It has been great to be your friend.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise after listening to the words of our distinguished whip, who has been here more than a couple of decades, and the distinguished Senator from New Mexico, who has been here more than three decades. I have only been in the Senate a couple of years, but I do want to let the distinguished Senator from Oklahoma know and say very publicly what an impact he has had on me and what deep respect I have for him.

When he came here, he talked about having respect for the Senate, and I certainly understand that. It is somewhat overwhelming to me. As he kind of recapped the 24 years, talking about the love that he has for this institution, I want to let him know what that means to somebody like me who comes here certainly with that respect—that love is something that grows. Love is something that is in the heart.

As I reflect upon a colleague who has been here, who has had some tough things he has had to do, I say to my friend—truly my friend from Oklahoma, the chairman of the Budget Committee—he is in an institution, surrounded by folks who like to say yes, who like to spend money. We like to take care of those around us who have needs. That is a good thing. But we also have to have a fundamental understanding. As in any family, you have to know what you earn and you have to know what you can spend. You have to have some discipline and you have to have some values and you have to do the right thing. It is hard, because naturally we want to say yes to those who come and say, We need help.

Because of the integrity of the Senator from Oklahoma, because of the deep respect his colleagues have for

him, he was able to guide us and help us understand what it meant to hold the line, to do the right thing, in the end, to build a stronger America.

His philosophical foundation, framework, ''restoring economic freedom for America,'' is something he said he started thinking about early, and that he always believed in it when he got here. Certainly in each and every thing I have seen him do here, it has been part of his core value, restoring economic freedom for America, so in fact we produce hope and opportunity and greater times for moms and dads. He has done it.

I cannot say I always thought it was the right thing to do. I can't say that every time we voted the same way. But I do want to let the Senator from Oklahoma know how important his words and his values and his integrity were, what they meant to me.

I have been going to the prayer breakfasts since I came to the Senate. I have listened to some of his helpful suggestions for strengthening faith. They have made a difference. They have made an impact.

You are going to be gone, physically gone, and the Senate will be different. But I have no doubt, and I feel part of that, that your faith and your love and your strength and what you have been about has had a profound impact on so many of us here. It has had a profound impact on me. Although you will not be here, know that as I go about making the decisions I make, I have no doubt I will reflect upon your words, reflect upon what you might think is the right thing to do, and then make the decisions I have to make.

You may be gone. You may move from this body. You are still a relatively young man with a great family, a magnificent wife. You are a person who can look back on all you have accomplished and still have the opportunity to accomplish so much more. But I do want to thank the Senator from Oklahoma for his service. I thank him for the opportunity he has given me to serve with him. I thank him for the impact he has had on my life, hopefully making me a better Senator, a better humble servant, a person better able to contribute with a deeper appreciation of how important faith is to the service we give. I want him to know what he is about certainly will live with me in the time I have to stay. I simply want to say for all of that: Thank you and God bless you.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, DON NICKLES has been truly one of our great Senators for almost a quarter of a century. I join with the remarks of others who came before me, and particularly MITCH MCCONNELL's belief that DON NICKLES is one of the best of all times in this body.

He rode into Washington at the age of 30, determined to fight for a heartland vision of America with all his strength and energy. As he leaves here, still a young man, limping a little bit from that New York marathon he just ran a few days ago, every one of us can say he was true to those ideals and extraordinarily effective in advocating them. This Senate and this Nation is losing a tremendous champion. We are losing one of our most valuable Members.

DON was a small businessman who had seen personally the oppression of mindless regulation and taxes and rules that make creating a business and creating jobs difficult and frustrating. He knows taxes stifle growth and human creativity and taxes mean a transfer of power and wealth from the people who have earned it by the fruit of their labor, sending it to Washington for governmental politicians to dispense.

He knows government spends too much and too wastefully. And he knows as a true man of faith that ultimately it is the families, the hearts, and the faith of America in which our strength resides.

Those values he holds and he holds them very strongly. For those values he has worked ably and courageously to his last day in the Senate. As his service here comes to an end, he can know that in each of these areas where he has committed himself, to a remarkable degree our country has made real progress. We have. He can and should take great pride in knowing he was a key player in effecting the historic transformation of this country from an era of big government to an era in which even President Clinton would say: Big government is over.

The battle hasn't totally ended. The roaches will come back. No doubt we will have to continue to spray. But tremendous progress has been made. DON's critical role in this historic reversal of the liberal big government vision as the answer to all our problems can be seen, in part, by examining the key positions he has held. He chaired the Budget Committee, the Republican Policy Committee, the National Republican Senatorial Committee, the Republican Platform Committee for the Republican National Convention, and he held a critical position of assistant Republican leader, the second person in charge here in the Senate.

During his career he has been involved in many key battles. One of the most crucial was the lead he took in opposing the Clinton administration one-size-fits-all health care plan in 1993. He offered a countervision of consumer choice and for Americans he won that battle by blocking what I think to be ill-advised legislation. I know he took great pride when Congress passed the Medicare prescription drug bill last year that included his vision for medical savings accounts and for more competition in the health care industry. I didn't agree with everything in that bill, but the good parts he and I battled for are going to be important for years to come in health care in America.

Two years later, in 1995, he secured passage of the Congressional Accountability Act, which made Congress abide by the same health and safety standards that employers around America did. That was an important psychological victory for those who suffered under Government regulation, that those of us who write the regulations have to abide by them, too. In 1995 he authored the bill for families to receive $500 per child tax credit. Now it is $1,000 per child tax credit. When I campaigned in 1996, it was one of the primary emphases of my campaign. I strongly believed, and believe to this day, that nothing has been done to strengthen families more than allowing the working families trying to raise children today to have an extra $1,000 in their pockets to take care of their children and their families. DON NICKLES was the one who drove that home.

In 1998, the International Religious Freedom Act that he referred to in his remarks became law. He has been a champion of religious freedom and rights. He worked to establish this commission to develop appropriate responses to violations of religious liberty worldwide. Since the bill's passage, the commission has issued four annual reports on religious freedom and persecution around the world. This act will become more and more important as the years go by, as we are now seeing a rise in religious intolerance and persecution around the world. Now we have an authoritative source so the world can know how serious this problem is, and that knowledge can help us lead to positive change.

The next year, the Senate passed the Patients' Bill of Rights legislation.

Throughout 1998, Senator NICKLES chaired a task force of Republican Senators, on which I served, working to better understand and respond to the concerns about managed health plans. His group wrote and introduced the Patients' Bill of Rights-Plus, a responsible alternative to the plan that would have dramatically increased health care costs. It was a terrific battle. DON called us together daily to prepare on how to carry out the debate. The opposition said a massive intervention into the American private insurance market by the Federal Government was necessary, and anybody who dared oppose this huge Federal mandate would just be run over by them. But DON proposed legislation that targeted the real abuses, with minimum cost increases and limited Federal regulation.

His bill would have, in fact, impacted the cost of premiums only a fraction of what was proposed by the opposition.

It may now seem a small matter. At the time of that debate it was a central issue before the Congress for months, and pressure from the liberal news media to pass an expansive bill was great. There could be no doubt that his personal leadership on behalf of individual citizens and small businesses was a key factor in the successful effort to avoid a fundamental takeover of private insurance in America.

In 2003, he became chairman of the Budget Committee, and I had the honor of serving as a member. During his chairmanship he made great strides to protect the fiscal sanity of our country. He led the Budget Committee during the time of war when our homeland was attacked and when we had a serious economic slowdown. He faced a surging national debt, and it was a time of heated partisanship in an evenly divided Senate. I was doubtful that anything could be accomplished because of the partisan atmosphere, and I told DON of my doubts.

I said: I am not sure we can produce a budget. He understood the difficulty he was facing but was convinced that a responsible budget was essential for America. He set to work with his usual skill and determination and commitment to principle and courtesy. He knew his budget depended on many. There was, indeed, much political posturing on all sides as all maneuvered to promote their interests. But DON never wavered. He was confident, funny, gracious, and determined.

The result was a very responsible 2004 budget with good spending limitations and caps. Wisely, he managed to make sure there would be a cap for fiscal year 2005, which we are in now, in case the budget would have failed this year. Without doubt, this was a good plan. It was critical that the Senate at that time pass a budget in a time of national insecurity and great deficits. It impacted positively, I believe, the economic situation of our country.

We didn't produce a fiscal year 2005 budget, although DON gave it his all. I have never seen him work so hard. He tried everything that could be done to achieve a budget for this year. That effort failed, but his fiscal year 2004 cap still made sure that we could maintain spending control.

I could say more, but I will just close with the remarks that were shared by Phil Gramm as I talked about DON one time. I said something good about him. And Phil Gramm, an astute observer and great Senator, shook his head and said: I am always amazed that this machine shop operator from Oklahoma is so consistently right on every issue that comes up.

I agree. He has been consistently right for every year he has been here. He has been the leader in the values that the American people share. He has played a critical role in the development of a new vision for government in America. He has produced regulations; he reduced taxes; he has empowered people around the globe. It has been an honor and a pleasure for me to call him a friend and serve with him. I admire him greatly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I came here primarily to listen this afternoon and show my respect for the Senator from Oklahoma.

My remarks will be very brief.

I want to begin with a story that I told the Senator from Oklahoma before. My mentor in politics is former majority leader of this body, Howard Baker. I got involved in politics because of him in the 1960s, when we were building a two-party system in Tennessee. I remember the campaign of 1980. Senator Baker was the Republican leader. He changed the name on the door from ''Minority Leader'' to ''Republican Leader'' because he didn't want the Republican Party thinking of itself as a permanent minority. Many people thought he was just whistling, ''Dixie,'' so to speak.

At that time, there were 37, 38, or 39 Republican Members, and no one saw much prospect of getting much further ahead of that.

Then came a tidal wave in 1980 with the election of President Reagan and 13 or 14 new Republican Senators. It went from fewer than 40 to more than 50. Senator Baker had predicted that. I had learned to pay attention to him.

I saw him after the election. I said: Well, you were right about that. You were about the only person who was. He said: I will tell you one thing.

I said: What is that?

He said: Pay attention to NICKLES.

I said: Who is NICKLES?

He said: He is this young, 32- or 33-year-old new Senator from Oklahoma, and he is going to be a real force to deal with.

I have paid attention to Senator NICKLES ever since then. I have served in the Senate with the Senator from Oklahoma, and during that time I have seen him a lot. We have known each other. I think Senator Baker was correct. A lot of people have paid attention to DON NICKLES ever since 1980. I am delighted to have had the privilege of serving 2 years with him in the Senate.

In my experience, I have found him highly intelligent. He has been a big help with the complex issues that we have here. He is principled. That is important. And he has been easy to work with from the point of view of a colleague.

I heard his remarks to the new Senators that he was meeting with; he and the Senator from Louisiana spoke to them as they were stepping down. He was suggesting that even though he is known as a principled, effective, and conservative Senator, he reminded them that in order to get things done in the Senate there has to be a consensus. And that usually means finding ways of dealing across the aisle with colleagues we respect.

I am simply here today to show respect, not to make a speech.

I am glad to have that opportunity and finally to say something that may be a little different from what some of your other colleagues have said.

I admire your decision, and from my perspective I think it is the right one. Life is big. It is more than politics. It is more than government.

This is a big wonderful world in which we live. We live in a magnificent country. There is a lot to savor.

For example, when I have been in and out of public life at different times and leaving the Governorship, going into the private sector was liberating. I found that my focus had been narrow and that there were a great many things about my personal life, about my family's life, about my country's life, and about the private sector that I could get involved in and found very interesting. Over time I found I could come back to the public sector with a new energy, a broader experience and a different perspective.

I don't know what the future may hold for you.

I think it is wise to make such an enormous contribution here, and at the peak of that, to step out and take that to other places. For one, I hope the future will include, in some way, a contribution in the public arena. But you certainly deserve a chance to explore the private arena.

It has been my privilege to know you and to serve with you, and to know, once again, that Howard Baker was right in 1981 when he said, ''Pay attention to Nickles.''

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INVESTIGATION INTO AIR FORCE LEASING OF BOEING AERIAL REFUELING TANKERS

Mr. MCCAIN. Madam President, I intend to address the Senate for a period of time today. I believe I have as much as an hour under postcloture debate, but I will be discussing an issue I have been involved in for some 3 years now and have not reached a conclusion, although certainly enormous progress has been made in trying to address this issue.

But during these 3 years since the appropriators slipped a $30 billion rider in the fiscal year 2002 Defense appropriations bill, a lot of strange and unusual things have happened, I am sad to say, that are a very damming commentary about the way the Pentagon in general and the Air Force in particular conducts its business.

I am going to tell a story that has not, as I said, reached its end. But it has uncovered the very strong likelihood, because of the confession by Ms. Druyun in Federal court when she pled guilty, that there could be many billions of dollars of the taxpayers' money that were wasted, criminally treated, and misused because of the decisions made by Ms. Druyun. The question is, How could Ms. Druyun have done all this by herself? Did she have accomplices or was the system in the Pentagon so broken that one individual

could make contracting decisions which entailed tens of billions of dollars, and in this case may have cost the taxpayers of America millions and even billions of dollars as well?

Nearly 3 years ago, behind closed doors, the Appropriations Committee slipped a $30 billion rider in the fiscal year 2002 Defense appropriations bill. This rider authorized the Air Force to lease from Boeing up to 100 767s for use as aerial refueling tankers. Before the rider appeared in the bill, Air Force leadership never came to the authorizing committees about this issue. In fact, tankers have never come up in either the President's budget or the Defense Department's unfunded priority list. The Air Force's tanker lease program was born of a virgin birth.

The rider was, in fact, the result of an aggressive behind-the-scenes effort by the Boeing Corporation with considerable assistance from senior Air Force procurement official Darleen Druyun and others. After the President signed the bill into law, the Air Force embarked on negotiating with Boeing a lease that would have cost the taxpayers around $6 billion more than an outright purchase of these aircraft would have.

Soon after Air Force Secretary Jim Roche submitted to the four Defense committees a report on plans to lease these tankers from Boeing, three out of the four authorizing committees summarily approved the lease without even looking at the contract. Two did so without even holding a single hearing.

Much to his credit, Senate Armed Services Committee Chairman JOHN WARNER held the line and refused to authorize the proposal, as did the ranking member, Senator CARL LEVIN. Through the hearings and investigations that followed, we unearthed a crushing body of evidence on how much a folly the proposal actually was.

Throughout 2002 and in the beginning of 2003, even agencies within the Defense Department and the Air Force, including Program, Analysis and Evaluation, the Office of Management and Budget, and even the Air Force's own General Counsel's Office raised salient concerns about aspects of the proposal. These concerns, however, would not get in the way of Air Force leadership.

Rather than resolve these concerns, Air Force proponents continued to aggressively push the deal in the press. A Wall Street Journal editorial entitled ''John McCain's Flying Circus,'' published on the very same day as the tanker hearing we had in the Commerce Committee, is particularly notable. It was obviously drafted with considerable help from the Office of the Air Force Secretary. In it, tanker proponents accused me of ''trying to prevent approval by running up my own Jolly Roger'' and brazenly exaggerated the Air Force's need for tankers by describing how, during Secretary Roche's visit to Tinker Air Force Base, he ''peeled back the skin of a tanker being refurbished and found the metal underneath disintegrating before his very eyes.''

By this time, Air Force leadership's aggressive press campaign was well underway. On April 25, 2002, Secretary Roche's special assistant, William Bodie, told Secretary Roche that he:

> saw Rudy deLeon [who heads Boeing's Washington office]—

And, by the way, he has rotated back and forth between the Congress and defense corporations and the Defense Department—he:

> saw Rudy deLeon at the Kennedy Center and politely asked the Great White Arab Tribe of the North [which is what these folks called Boeing] to unleash their falcons on our behalf for once. I talked to [defense analyst] Loren [Thompson], who is standing by to comment to this reporter about the national security imperatives of tanker modernization. [Editor of Defense News and Air Force Times] Vago [Murandian] is also standing by. I will get with [Assistant Air Force Secretary for Acquisitions Marvin] Sambur first thing to rehearse talking points.

Get that, ''to rehearse talking points'' with the editor of Defense News and Air Force Times and defense analyst Loren Thompson: We will get with you before we talk to the reporter.

Among the falcons that Boeing ''unleashed'' was an op-ed that subsequently appeared in Vago Muradian's Defense News. This piece, which strongly endorsed Boeing's tanker lease, was supposedly written by former Commander-in-Chief for U.S. Pacific Fleet Admiral Archie Clemins. However, Admiral Clemins has admitted, and Boeing's e-mails reflect, that it was in fact ghost-written and placed by Boeing.

As this indicates, rather than address salient concerns regarding the tanker deal raised by their own staff, Air Force leadership focused on using the press, which Mr. Bodie described as ''3rd Party support at its best'' to perpetuate the fiction that ''the lease was the exact opposite of a Boeing 'bailout.'" Among the spin that lease advocates fed the press, were statements like, ''[I] will not succeed in blocking a 767 lease because tanker replacement is critical and [I] have offered no alternatives to leasing.''

While Air Force leadership was focused on pushing the deal in the press, analyses from several independent bodies, including the Defense Department's Office of the Inspector General, the Government Accountability Office, the Congressional Budget Office, the Congressional Research Service, the National Defense University, the Center for Naval Analysis, the Institute for Defense Analyses, and others criticized almost every aspect of the program. Perhaps most notably, a Defense Science Board Task Force, vetted for conflicts with industry only after my insistence, concluded that the need to replace the current tanker fleet was not urgent. The Task Force's finding debunked the numerous representations Air Force leadership made to the contrary. Indeed, the Defense Science Board suggested that the Air Force's case on corrosion was virtually cut from whole cloth. Air Force leadership repeatedly cited this case as the biggest reason for having taxpayers pay Boeing billions more than necessary.

About 2 months ago, Ms. Druyun was sentenced to 9 months in prison on public corruption charges. Her crime: negotiating the $30 billion deal with Boeing while negotiating with Boeing for a job. Ms. Druyun's sentencing occurred months after Boeing's board of directors fired her and former Chief Financial Officer Michael Sears for misconduct arising from the tanker negotiations. Boeing's Chief Executive Officer Phil Condit soon left the company under a cloud of suspicion.

In court papers accompanying her sentencing, Ms. Druyun admitted to overpricing Boeing's 767s as a ''parting gift'' to Boeing. She admitted that she did this to ''ingratiate herself'' with her future employer and help secure employment for her daughter and future son-in-law at the company. Astonishingly, Ms. Druyun also admitted that she similarly harmed the United States on behalf of Boeing on several other major defense programs, including the NATO AWACS, C–130 AMP, and the C–17 programs. How much taxpayers were fleeced remains unclear. These contracts were in the billions. But this matter remains under investigation by the Justice Department and other authorities. The scope of these investigations seems to widen almost weekly. Ultimately, it is likely that Ms. Druyun's misconduct cost taxpayers an astronomical sum.

In yesterday's paper, Lockheed is bringing suit against Boeing for allegedly having involvement with bid rigging on other contracts as well.

Over the past few weeks, Air Force leadership has tried to delude the American people into believing that all of this happened because of one person, and that because no one else has been hired for her position, the problem has been solved. I don't buy it. I simply cannot believe that one person, acting alone, can rip off taxpayers out of possibly billions of dollars. This appears to be a case of either a systemic failure in procurement oversight, willful blindness, or rank corruption. Either way, full accountability among Air Force leadership is in order.

Just this week, Secretary Roche and Ms. Druyun's old boss, Assistant Secretary of the Air Force for Acquisitions Marvin Sambur, announced their resignations. But, among Air Force leadership, nor one has assumed responsibility for this debacle. Ms. Druyun is, perhaps grudgingly, accepting responsibility for her role. To some extent, Boeing has accepted responsibility for its. The Justice Department and others are continuing to ferret out others who may be responsible. However, accountability among Air Force leadership has been almost nonexistent. It seems that it is business as usual. Air Force leadership remains content laying all the

blame at the feet of a single individual, Darleen Druyun. I'm not buying it.

Just on the Tanker Lease Proposal, the conduct of Air Force leadership has been unacceptable. First, Air Force leadership was never interested in doing a formal ''analysis of alternatives'' for the multibillion dollar tanker program. Such AOAs are typically always done for major defense programs.

Second, Air Force leadership misrepresented to Congress how bad corrosion afflicted the current tanker fleet. They did this to devise a reason why taxpayers needed to lease new tankers from Boeing, rather than simply buy them at a much lower cost.

Third, according to independent analyses, Air Force leadership overstated ''operation and supply'' cost-growth estimates for the current tanker fleet. This too was done to artificially bolster the case that the current fleet needed to be replaced immediately, at a dramatically higher cost.

Fourth, Air Force leadership repeatedly misrepresented that its proposal was merely an ''operating lease.'' Their plan was to slip the program in the budget at a relatively modest initial cost, only to have actual costs balloon in the intervening years. We now know that this was done to conceal the Tanker Lease Proposal's real budgetary impact.

By the way, they also had plans that the money to fund in the later years, known as outyears in Pentagonese, that would be taken from the other services' budget.

Fifth, according to the Defense Department's Inspector General, the commercial procurement strategy that Air Force leadership used in the tanker proposal (and, incidentally, the C–130J program) placed the Department at ''high risk for paying excessive prices,'' and precluded ''good fiduciary responsibility for DoD funds.''

Sixth, the Inspector General found that, when the specifications for the tanker were being developed, Air Force leadership let Boeing tailor those specifications to Boeing's proposed tanker. They were not tailored to the operational requirements of the warfighter. They should have been. Yet, Air Force leadership allowed an Air Force briefer to tell the Joint Staff that the tanker ''operational requirements document'' was not tailored to Boeing's aircraft. The Defense Department Inspector General, however, found that it was.

I could go on, but I'll stop here for now. As I've gone into many of these points in excruciating detail in my letter to Secretary Rumsfeld on July 28, 2004, I'll simply ask for unanimous consent to have my letter printed into the RECORD.

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

JULY 28, 2004.

Hon. DONALD H. RUMSFELD,
Secretary, Department of Defense
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am concerned about how the Analysis of Alternatives (AoA) for the Tanker Lease Proposal will be conducted. In particular, I am concerned about the participation of Air Force leadership in the AoA, and the involvement of the Air Force's federally funded research and development center (FFRDC)—RAND, which I understand is spearheading this effort.

The conduct of Air Force leadership regarding the Tanker Lease Proposal has been unacceptable. Frankly, its credibility on the recapitalization of the tanker fleet has been fundamentally called into question. Notably, many of the problems that the Department of Defense Office of the Inspector General (DoD-OIG) found in the Tanker Lease Proposal are similar to those it recently found in the multibillion dollar C–130J procurement program. Bases for my concern about the participation of Air Force leadership in the AoA include, but are not limited to, the following.

First, the Air Force has provided Congress inaccurate information in an attempt to justify its original proposal to lease 100 Boeing KC–767As. For example, Air Force Secretary Jim Roche has repeatedly advised Congress that, in the existing KC–135 fleet, ''corrosion is significant, pervasive, and represents an unacceptable risk.'' Secretary Roche has also emphasized to Congress increased operating costs in the current fleet as a basis for entering into the tanker lease. Air Force leadership has indicated that these elements create an ''urgent'' need to recapitalize the fleet. However, as you of course know, the DSB task force concluded that the Air Force's claims of unmanageable corrosion problems and cost growth were overstated. As such, the task force also concluded that ''[t]here is no compelling material or financial reason to initiate a replacement program prior to the completion of the AoA and the MCS.'' Thus, the task force jettisoned the ''dominant reason'' Secretary Roche first cited in his July 10, 2003, report to Congress as the basis for having taxpayers pay billions of dollars more for leasing tankers than they would for buying them. The Air Force's representations on this issue remains a matter of continuing investigative concern.

In another example, to comply with the original authorizing statute, the Air Force misrepresented to Congress that its proposal to lease 100 Boeing KC–767 tankers was merely an operating lease. This would have obviated the requirement that the White House obtain advance budget authority for the whole lease proposal. But, the DoD-OIG and Program Analysis and Evaluation (PA&E), as well as the Congressional Budget Office (CBO) and the General Accounting Office (GAO) found that the procurement of these tankers is, in fact, a lease purchase. In addition, facts surrounding the original lease proposal made it clear that the transaction was a lease-purchase: under the original proposal, the Air Force conceded that the DoD is ''committed to earmark[ing] an additional $2B in FY08 and FY09 for the purchase of aircraft covered by the multi-year program under the terms of the proposed contract'' to head off a funding spike over the Future-Years Defense Program.

Second, the DoD-OIG and the NDU concluded that the Air Force's commercial item procurement strategy ''prevented any visibility into Boeing's costs and required the Air Force to use a fixed-price type contract . . . The strategy also exempted [Boeing] from the requirement to submit cost or pricing data. The strategy places the Department at high risk for paying excessive prices and precludes good fiduciary responsibility for DoD funds.'' The NDU similarly concluded that ''[i]n a sole source, monopoly commercial environment, the government is not served well with limited price data'' and suggested that the Air Force neglected its fiduciary/stewardship responsibilities.

Notably, the DoD-OIG arrived at similar conclusions regarding the Air Force's mismanagement of the C–130J procurement program. In particular, the DoD-OIG found that, because the C–130J was improperly acquired as a commercial item, the Air Force did not have contractor-certified information on contract prices, costs, or profits, and therefore was ''limited'' in its ability to protect the Government against possible overpricing.

Third, the DoD–OIG and the NDU also concluded that the operational requirements document (ORD) for tankers was not tailored, as it should have been, to the requirements of the warfighter, but rather to closely correlate to the Boeing KC–767A. The DoD–OIG found that senior Air Force staff directed that the ORD closely correlate to the Boeing KC–767A that was being developed for a foreign government, in anticipation of the authorizing legislation. This is particularly troubling where, according to an internal Boeing document regarding the ORD, Boeing planned to ''establish clearly defined requirements in ORD for the USAF Tanker configuration that results in an affordable solution that meets the USAF mission needs and will prevent an AOA from being conducted.'' Under the current proposal, the first 100 tankers produced will not be capable of, among other things, interoperability with Navy, Marine, or coalition assets, or simultaneously refueling more than one receiver aircraft. Rear Adm. Mark P. Fitzgerald, USN, recently suggested that in theater, such a limitation restricts the Navy's long range striking capability and fosters a needlessly risky aerial refueling environment.

Notably, with respect to the C–130J procurement program, the DoD–OIG similarly found that, while the Air Force conditionally paid Lockheed Martin about $2.6 billion, the C–130J is not operationally suitable or effective and cannot perform its intended mission. Furthermore, to date, 36 deficiency reports that ''could cause death, severe injury or illness, major loss of equipment or systems, or that could directly restrict combat or operational readiness'' have been received.

Finally, Boeing documents suggest that the Air Force allowed Boeing to modify the requirements in the ORD while it was being developed. These documents also reflect that the Air Force induced the Joint Requirements Oversight Council (JROC) into approving and validating the corrupted ORD by falsely representing that it was not tailored to a specific aircraft. This is of continuing investigative interest to the Committee.

Interestingly, as a result of the commercial specifications of the C–130J not meeting user needs, the Air Force (and Marine Corp) decided to ''revise its requirements document'' to reduce the initial capabilities required and to satisfy operational requirement deficiencies through block upgrade programs at the Government expense. I am very concerned about this.

I understand that RAND (the Air Force's FFRDC), and Project Air Force in particular, is spearheading the AoA. Generally, the Air Force, specifically Dr. Sambur, is ''the overall sponsor'' for Project Air Force activities. However, having argued against the need for an AoA as early as November 2002, according to a recently produced internal DoD e-mail, Dr. Sambur has apparently prejudged its outcome:

''A formal AoA will cost money, delay the program two years, and still come up with the same answer we have today. There are only a few aircraft that can serve as tankers, they are already in production, and so analyzing their respective capabilities and costs won't take long—in fact, it's already been done and the results passed to OSD. What's left to study?''

As I originally indicated in my letter of March 12, 2004, Air Force Vice Chief of Staff General T. Michael Moseley similarly touted the Air Force's proposal to lease and buy Boeing 767s during recent budget hearings. In particular, General Moseley provided ''opinion'' testimony suggesting that the KC–767 tanker is the Air Force's only viable option. For example, in testimony before the Projection Force Subcommittee of the House Armed Services Committee, General Moseley specifically rejected re-engining remaining KC–135Es (as the DSB task force recommended); modifying used aircraft (for example, DC–10s, also as the DSB task force suggested); using contractor support services (as the GAO recently opined), and other options that your office's AoA guidance specifically required the Air Force to examine. While General Moseley attempted to explain away his testimony as ''personal opinion,'' at no time was he asked to provide his personal opinion and at no time during his testimony did General Moseley indicate that he was conveying a personal opinion. Considering General Moseley's role as the chairman of the Air Force Steering Group for Project Air Force and, respectfully, despite your assurances in your March 17, 2004, letter, I remain concerned that the Air Force and RAND have effectively prejudged the outcome of the AoA regarding the Tanker Lease Proposal.

Several recently produced internal DoD e-mails call into question whether the ongoing AoA will be conducted objectively. For example, in an e-mail, dated August 15, 2003, from Secretary Roche to Dr. Sambur and Acting Undersecretary Wynne, Secretary Roche dissuaded the OSD and Air Force staff from initiating an AoA. In this e-mail, Secretary Roche said the following:

''Aggggggg, stop the nonsense! Don't even begin to start an unnecessary AoA at this point. All this would do is give the enemies of the lease an excuse from DoD to delay the 'lease, and really honk off the Appropriators. Let's see what comes out of conference, damn it! If the lease is approved then we can talk about how to decide on the recapitalization of the other 400 airplanes, but there is no rush here.''

Soon thereafter, Acting Secretary Wynne responded, ''I agree with Jim, [sic] What started this flurry of activity? I'd hate for our story to change.'' The foregoing does not inspire confidence that the current AoA will be conducted properly.

My concern that RAND, in particular, may have prejudged the outcome of the AoA is underscored by its conclusion regarding tanker recapitalization in a recent report. In a December 2003 report entitled ''Investigating Optimal Replacement of Aging Air Force Systems,'' RAND, in particular Project Air Force, found—without the benefit of an AoA—that ''it appears to be optimal to replace the KC–135 by the end of the decade.'' Apparently relying on Air Force data and analysis that was ultimately rejected by the DSB task force, this conclusion comes unacceptably close to prejudging the outcome of the AoA and is inconsistent with the conclusions of the Air Force's own Economic Service Life Study; the GAO; and, most recently, the DSB task force, all of which found that the current fleet is viable through 2040. In light of the relationship between the RAND and the Air Force, as described above, there can be no assurance that RAND will conduct the AoA here with the desired independence.

My concerns appear to be reflected in a recently released internal DoD e-mail from Eric Coulter, Deputy Director for Theater Assessments and Planning at Program, Analysis and Evaluation (PA&E) to Nancy Spruill, co-chairperson of the Leasing Review Panel Working Group, dated August 7, 2003:

''I do not support RAND as the sole source or lead to conduct the Congressionally-directed independent tanker AoA. First, its [sic] sad that it takes Congress to direct the Department to do something it should do on its own. We've been Wingto get the AF to conduct an AoA for several years, but could never get AT&L's support to direct one. The AF clearly wanted to postpone it for as long as possible to delay the issue of recapitalizing the fleet. Now the Department is playing catch up. That said, [the Institute for Defense Analyses (IDA)] has more experience to conduct this type of effort. In fact, [Air Mobility Command] relies on IDA to do a lot of its mobility analyses both for airlift and tankers. I believe the Department will get a better, more objective product than we would from RAND. I hope we're not letting IDA's cost review of the tanker lease color our opinion. Please convince me otherwise.''

I am also concerned about the fact that Project Air Force may have received as much as $50 million for FY03 and FY04 and is expected to get at least another $25 million for FY05. This financial relationship between the Air Force and RAND renders RAND unsuitable for conducting the AoA on this multibillion dollar procurement proposal.

Given the foregoing, I respectfully suggest that the Air Force not enter into an agreement to procure aerial refueling aircraft until an entity independent of the Air Force—on the basis of a study not funded directly or indirectly by the Air Force—completes the AoA.

As always, I appreciate your consideration.

Sincerely;

JOHN MCCAIN,
Chairman.

Mr. MCCAIN. What I would like to do now is discuss documents, belatedly produced by the Defense Department, that underscore the need for accountability among Air Force leadership regarding the tanker lease proposal. While the total number of documents that the Defense Department has produced remains unsatisfactory, the few that have been produced are compelling.

On February 5, 2002, Air Force Secretary Roche personally assured me, in testimony before the Senate Armed Services Committee on the tanker program, that he ''believed in competition,'' and ''would come back to Congress'' if another competitive proposal was particularly good.

Secretary Roche's e-mails, however, suggests that he is indeed a man who allows his personal animus to stifle competition. For example, on September 5, 2002, Darleen Druyun wrote to Secretary Roche, ''I read with disgust the article on Airbus tankers from the new EADS CEO of North America. What BS . . . should not have been surprised at the slime . . . his day of reckoning will come hopefully.''

Secretary Roche answered, ''Oy. I agree. I had hoped you would have stayed and tortured him slowly over the next few years until EADS got rid of him!''

This is from the guy who says he believes in competition. His personal contempt for one defense contractor, and particularly its CEO, is clearly reflected in his other e-mails.

For example, on August 7, 2002, when Secretary Roche learned that Ralph Crosby, with whom Secretary Roche once worked at Northrop Grumman, was appointed to the head EADS' North American operations, Secretary Roche wrote to his special assistant, William Bodie:

Well, well, we'll have fun with Airbus.

The day after, William Swanson at Raytheon asked Secretary Roche:

Did you see the notice on Ralph in EADS?

Secretary Roche responded:

Right. Privately between us: Go Boeing! The fools in Paris and Berlin never did their homework. And, Ralphie is the CEO and chairman of a marketing firm, for that's all there is to EADS, North America. The [Air Force] has problems with EADS on a number of levels. The widespread feelings about Crosby and the Air Staff, Jumper especially, will only make their life more difficult. Smiles.

On September 4, 2002, Mr. Bodie wrote Secretary Roche complaining about statements EADS issued about its tanker proposal:

We don't have to turn the other cheek, you know. I'm ready to tell the truth about Airbus' boom, footprint, and financial shortcomings. But maybe we should sleep on it.

In response, Secretary Roche wrote:

No, sir, save it and blow him away. He admits they were not technically qualified! And, we keep their record of bribes as our trump card!

This is the Secretary of the Air Force communicating with an assistant of his saying ''we keep their record of bribes as our trump card.'' Remarkable.

Taken together, these documents inject serious doubt into Secretary Roche's commitment to competition in contracting, about which he assured me in congressional testimony.

During hearings on the controversy in the Senate Commerce Committee and the Senate Armed Services Committee, I expressed concern about Secretary Roche asking Boeing to pressure dissenting elements within the Office of the Secretary of Defense into playing ball on tankers.

However, in congressional testimony, Secretary Roche categorically denied this. For example, at a September 3, 2003, Commerce Committee hearing, I asked Secretary Roche about a Boeing e-mail dated 23 June 2003, ''Subject: Roche Meeting 23 June 2003.'' In particular, I asked Secretary Roche:

Do you have any recollection whatsoever of telling . . . anyone . . . from Boeing to put pressure on [Acting Assistant Secretary for Acquisitions] Mike Wynne to convince [Program Analysis, and Evaluation] to write a new letter essentially undoing the first letter [which criticized the proposal]?

After significant waffling, Secretary Roche responded:

No, sir. I talked to [PA&E Director] Ken Krieg, and in fact, I told him, ''Don't bother writing another letter.'' We understood these were his arguments.

Again, on September 4, 2003, at a hearing before the Senate Armed Services Committee, I asked the same question to Secretary Roche:

Do you have any recollection whatsoever of telling . . . anyone . . . from Boeing to put pressure on Mike Wynne to convince PA&E to write a new letter essentially undoing the first letter?

I might say that the first letter from this part of the Pentagon was very critical of the tanker lease deal. This time Secretary Roche testified:

I did not ask them to put pressure [on Wynne].

Finally, in testimony before the Senate Armed Services Committee on March 2, 2004, Secretary Roche adamantly denied asking the Boeing company to put pressure on Mike Wynne. Secretary Roche said:

I've told you there was no pressure. . . .[I] certainly did not tell them to pressure anybody.

Secretary Roche's e-mails, however, paint a very different picture.

From Boeing's e-mails, here is what we know. In a June 23, 2003, e-mail to Jim Albaugh, who is head of Boeing's defense subsidiary, Boeing executive Thomas Owens described a meeting during which Secretary Roche expressed serious concerns about this letter from Mr. Ken Krieg. Mr. Krieg is the Director of Program Analysis, and Evaluation at the Office of the Secretary of Defense. His letter was key. In that letter, Director Krieg concluded that the original Boeing proposal failed two key Government accounting rules and, therefore, violated the authorizing legislation.

According to Mr. Owens's e-mail, Secretary Roche ''ask[ed] [Boeing] to put pressure on [Acting Assistant Secretary of Defense for Acquisitions] Mike Wynne to convince PA&E to write a new letter essentially undoing the first letter.''

Soon after, Dr. Sambur wrote Secretary Roche regarding the PA&E letter saying:

Boss, this is getting ridiculous.

Secretary Roche wrote to Acting Assistant Secretary Wynne as follows:

Ever since Pete—

They are talking about former Assistant Secretary Aldridge—

left, the bureaucrats who opposed the 767 lease have come out of the woodwork to try to kill it—yet, once again, Mike, I won't sign a letter that makes the case that we shouldn't lease the planes. Ken Krieg's memo attached is a cheap shot, and I'm sure has already been delivered to the enemies of the lease on the Hill. It is a process foul. And Ken needs to be made aware of that by you! I can't control the corporate staff on acquisition issues. Mike, this is their way of asserting dominance over you. I know this sounds wild, but animals are animals. Pete had beaten them down. Now, they're taking you on. I'm sorry. Expecting professional behavior from them is something I gave up on a while back. Among other things, they are about to embarrass SecDef—

That is Secretary of Defense—

who having approved the lease, will now have to explain why his staff is destroying the case for it. I'll do whatever I can to help you, Mike, but [it's] your job to get the corporate staff under control. If not now, then they will overrun you whenever you ''don't behave'' according to their desires. This is a game they played for years. [They] and OMB are trying to set the Air Force up to be destroyed by Sen McCain with OSD—

Office of Secretary of Defense—

and OMB—

Office of Management and Budget—

arguments. As you might imagine, I won't give them the chance, but I will make it clear who is responsible to Don [Rumsfeld]. I refuse to wear my flack jacket backwards!

This is after testifying before the Senate Armed Services Committee that Secretary Roche never put any pressure on anybody. This is remarkable.

Subsequently, Assistant Secretary Wynne reprimanded Director Krieg. In response to an e-mail from Director Krieg that attempted to clear the air, Secretary Roche rather disingenuously answered:

Kenny, I love you, and you know that. I think you have been had by some members of the famous PA&E staff. You never should have put what you put in writing. It will now be used against me and Don Rumsfeld.

Other e-mails corroborate that Secretary Roche suggested to Boeing that it lobby the Office of the Secretary of Defense to undercut Program Analysis and Evaluation. For example, a December 17, 2002, e-mail from Boeing's top lobbyist Andy Ellis to Rudy deLeon, who heads Boeing's Washington office and served as a Deputy Defense Secretary in 2000 and 2001 described ''some quick notes from Jim [Albaugh]'s meeting today. It instructed, ''Please do not re-distribute this e-mail.'' The e-mail memorialized what was said during ''[a] meeting with Sec. Roche'' as follows:

PA&E now a problem on tankers—arguments include price, 767 footprint and prospects for ''used 767s.'' Boeing needs to do more on behalf of tankers in the Office of Secretary of Defense. PA&E working to convince Aldridge to delay—reengine while doing an analysis of alternatives. We should vector hill support for tankers at Aldridge. . . . said he is very comfortable with the price air force has on tanker, and very comfortable with overall deal. It is the right time to do this deal. He is waiting until early January to push on the Office of Management and Budget—wants to deal with the next congress, not the current. . . . Boeing needed to work White House and especially Office of Secretary of Defense.

That is from the Secretary of the Air Force.

Other e-mails recently produced by the Department of Defense corroborate the shocking dynamic whereby Secretary Roche apparently orchestrated efforts against tanker lease critics within the Office of the Secretary of Defense. For example, in a May 7, 2003, e-mail, Paul Weaver, a Boeing lobbyist and former Director of the Air National Guard, wrote Secretary Roche as follows:

Rudy [DeLeon] called me and said that Marv Sambur was getting beat up by Mike Wynne again concerning the $125 million number per aircraft. Rudy would like to know if he needs to do anything like calling in the big guns to help out. I told him I would query you to get your advice.

In response, Secretary Roche wrote:

It's time for the big guns to quash Wynne! Boeing won't accept such a dumb contract form and price, and Wynne needs to ''pay'' the appropriate price!

Now, that is the Secretary of the Air Force talking about another member of the Pentagon in the Office of the Secretary of Defense, Program Analysis and Evaluation:

Wynne needs to ''pay'' the appropriate price.

I wonder what he was talking about.

These e-mails call into serious question whether Secretary Roche was truthful in testifying that he had not directed Boeing to pressure tanker lease critics within the Office of the Secretary of Defense to play ball.

During last year's hearings, we released e-mails indicating that Secretary Rumsfeld's policy analysts may have been improperly lobbying the Office of the Secretary of Defense in support of the tanker lease proposal. Another set of e-mails, only recently produced, give a fuller picture of this issue. For example, in an October 9, 2002, e-mail, Darleen Druyun wrote Secretary Roche and Dr. Sambur saying:

I would like to informally brief [Defense Science Board Chairman] Bill Schneider on tanker leasing when he gets back from Germany. I had briefed him during the transition about the idea of leasing as a viable acquisition alternative. He has apparently had a positive conversation with Wolfowitz on leasing and is interested in quietly helping us.

This is the head of the Defense Science Board, who is supposed to be making decisions about weapons systems and other acquisitions, and he is ''interested in quietly helping us.''

If you give the nod we will use the same charts we used to brief Gingrich which was very positively received by him.

Secretary Roche responded:

Please do. Thanks much.

This e-mail, and others I have released, raise serious questions about the undue influence that industry exerts on procurement decisions in the Pentagon. What is striking here is that in this case, Air Force leadership seems to have been deep in the middle of it.

To what I have described already, add the doctoring of documents produced to Congress. After SASC, Senate Armed Services Committee, staff returned from their visit from Tinker Air Force Base in October 2003, they asked for some placards that reflected unusually low failure rates associated with component parts of the KC–135s maintained there. That is the present Air Force fleet of tankers. Shockingly, what the Senate Armed Services Committee staff received were altered versions of what they asked for. I conveyed my concerns about these doctored documents directly to Secretary Roche. In Secretary Roche's February 27, 2004, response to me, he conceded that the information that the Senate Armed Services Committee requested was intentionally deleted. In particular, he explained:

As those placards featured ''Tinker-only'' information, and because our installations and logistics professionals strive to present a complete and timely picture of our fleet, they amended the placard file by omitting the ''Tinker-only'' occurrence factors.

To add insult to injury, the explanation that the Air Force leadership provided to the press about what happened was different entirely. Furthermore, we have yet to learn who in Secretary Roche's office directed that the information that Congress asked for be doctored before it was delivered.

It seems that whatever documents Air Force leadership did not doctor, they improperly withheld.

For example, on Friday, September 10, 2004, the White House Counsel's Office and the Office of Management and Budget brought to my staff's attention a very troubling e-mail stream between Secretary Roche and senior OMB official, Robin Cleveland. After Darleen Druyun went to work for Boeing, Ms. Cleveland, the Associate Director for National Security Programs, represented the Government in negotiating with Boeing on the tanker lease proposal.

In this e-mail stream beginning on May 9, 2003, Ms. Cleveland asked Secretary Roche to help her brother get a job at Northrop Grumman. The e-mail said:

Jim, this is my brother's [Peter Cleveland's] stuff. I would appreciate anything you can do to help with NG—

that means Northrop Grumman—

He is an incredibly hard working, disciplined guy—worked full-time, with two little kids, putting himself through law school at night. I would be grateful. Thanks very much. Robin

About half an hour later, Secretary Roche gave Mr. Cleveland's resume and cover letter, and, under color of his office and title, vouched for him to Steve Dyslas, a Northrop Grumman executive:

I know this guy. He is good. His sister (Robin) is in charge of defense and intel at OMB. We used to work together in senior staff. If Peter Cleveland looks good to you, pls [sic] add my endorsement.

A few minutes later, Secretary Roche wrote Ms. Cleveland in an e-mail:

Be well. Smile. Give me tankers now. (Oops. Did I say that? My new deal is terrific.)

Now, the person who is responsible for overseeing the national security programs at the Office of Management and Budget, the watchdog of all the budgetary issues in America, that one specifically charged with overseeing tankers, asked the Secretary of the Air Force to get her brother a job. He, under his title and name, contacts the defense corporation that does business with the U.S. Air Force and asks them to give Ms. Cleveland's brother a job, and then after sending it, sends an e-mail back to Ms. Cleveland:

Be well. Smile. Give me tankers now. (Oops. Did I say that? My new deal is terrific.)

On May 15, 2003, Ms. Cleveland responded to her brother in an e-mail entitled: ''Interview at NG,'' saying, ''Great. Hope it works before the tanker leasing issue gets fouled up.''

Until these e-mails were brought to our attention by the White House, we never even knew about them. In a meeting with me on September 13, 2004, White House Counsel Judge Alberto Gonzales told me that someone in Secretary Roche's office concluded that these e-mails were a joke and therefore they did not need to be produced.

That has to be taken in the context that they told me that they would give me these e-mails as part of our oversight responsibility. The Secretary of the Air Force decided the e-mails that I just cited were not relevant to the tanker deal. So if there is some level of mistrust that exists between me and my office and the Secretary, maybe that clears up that degree of mistrust a little bit.

Given all the scandal and controversy surrounding the tanker lease proposal, and especially given the keen interest that Chairman WARNER and I have expressed regarding potential Air Force misconduct, the unilateral decision made by Air Force leadership to withhold this document is profoundly disturbing.

Keeping a defense contractor's ''record of bribes'' as a ''trump card''; ''torturing'' a defense contractor ''slowly''; pressuring dissenting elements within the Office of the Secretary of Defense whose job it was, particularly in the absence of a Defense Acquisition Board—in other words a formal analysis—to vet this procurement program; signing off on a plan to get the chairman of the Defense Science Board to ''quietly help'' on the tanker lease inside the OSD; doctoring and improperly withholding documents requested by Congress: this is the picture that we are getting on what happened with the tanker proposal, and we have received only a few documents from 6 out of 30 people we have asked for. This is the picture we are getting, but no one among Air Force leadership stands up to assume responsibility. Instead, what we get from Air Force leadership is deeply troubling statements in the press about how rosy things are. For example, in a recent op-ed appearing in Defense News, Dr. Sambur describes the current acquisition process as ''healthy'' and ''on track.''

Hoping that Air Force leadership will ''get it'' now may perhaps be too much, when they didn't ''get it'' then. In that context, I find particularly troubling an e-mail from Air Force Under Secretary Teets to Secretary Roche sent just 3 days after Boeing announced the firing of CFO Michael Sears and Vice President Darlene Druyun. In it, Under Secretary Teets writes:

Jim, I think it is important for you to know all I know about the situation surrounding the tankers . . . Late Tuesday afternoon I talked to Marv Sambur and got his assurance that a thorough review of the Darlene situation had been completed and there was no way Darlene had any influence on our plan for tankers. Furthermore, Marv said that a letter had been prepared for the DepSecDef to send over to the SASC indicating same, and notifying them of our intent to proceed.

So two people are fired by Boeing because of information that has come to light about improper behavior and later the individual pleads guilty in court—in fact, both of them have now pled guilty in court. Ms. Druyun has confessed that she rigged the contracts as a ''parting gift to Boeing'' in behalf of her daughter and son-in-law's employment.

Meanwhile, the Under Secretary of the Air Force writes to the Secretary of the Air Force that he talked to Marv Sambur, the Assistant Secretary of the Air Force for Acquisition, and got his assurance that ''a thorough review of the Darlene situation had been completed and there was no way Darlene had any influence on our plan for the tankers.''

I am amazed. I am amazed.

One thing is for sure: the final chapter on the tanker lease proposal cannot be closed until all the stewards of taxpayers funds who committed wrongdoing, are held accountable. In order to get a full accounting of what happened on the tanker lease proposal, I will continue to insist that all the documents that the Senate Armed Services Committee has asked for, be produced—no matter how long it takes

In closing, Air Force Doctrine Document 1–1 on Leadership and Force Development contains a section setting forth the Air Force's core values. There are three: integrity, service before self, and excellence in all they do. The first, integrity, includes the indispensable characteristics of accountability, responsibility, honesty, and honor. When it comes to Air Force leadership's conduct regarding the tanker lease proposal and related congressional probes, I must however ask: where is the accountability and the responsibility; where is the honesty and the honor; where have these core values been over the past 3 years, and where are they now? To eschew accountability here is to do a profound disservice to the good men and women who wear the uniform of the United States Air Force honorably, capably, and proudly.

For those in the public interested in what I have discussed today, I will be posting all of these documents on my website, www.mccain.senate.gov.

In closing, the scandal continues to widen. Yesterday one of the competitors of Boeing alleged that information was leaked by Ms. Druyun, and the CEO of Boeing. I don't know if it is true. I doubt if it is true. I have no way of knowing. But the scandal continues to unfold. As I said, we have only received a small percentage of the documents and e-mails that we have asked for.

This is a very sad chapter. I was asked last week by a reporter for the Air Force Times if this was personal with me, this issue I have discussed on the Senate floor for the past half hour or so.

It is personal in this respect. It is personal that I had the privilege of serving in the U.S. military and wearing the uniform. I believe we always expect not only the same standard but a higher standard of conduct of the men and women who wear the uniform, and the vast majority, 99 and 44/100 percent of the men and women who wear the uniform conduct themselves with the highest degree of honor, courage, and integrity. But here we have individuals who have, obviously, behaved in a less than honorable fashion. That is why it is necessary we get to the bottom of this.

Next year, beginning January, we are going to have to look at the whole procurement process as it works today in the Department of Defense, because we have just found out that Ms. Druyun, in her guilty plea, said she was involved in rewarding Boeing on several other contracts, not just the Boeing tanker lease. We have no idea how much money that is. But it brings a profound question here: How could one person do this? How could one person alone in the whole Pentagon—I have forgotten how many thousands of people work there—have done this and they not know about it? If they didn't know about it, what kind of a system is it that allows such a thing to take place, over a period of years?

I deeply regret having been involved in this. But I also remind my colleagues that the way this thing started was the insertion in an appropriations bill that was one line that no member of the Senate Armed Services Committee had any knowledge of nor did the Senate Armed Services Committee have a single hearing on before this appeared as a line item in an appropriations bill. That is not the way to do business.

I would allege to you right now, if it had gone through the normal authorization process perhaps this whole scandal wouldn't have unfolded the way it did because we would have had a hearing. We would have scrutinized the proposal. We would have gone through the normal process. Instead, we spent 3 years fighting a rearguard action and through the sheerest kind of luck, in many respects, we are able to identify this wrongdoing.

I hope we can get to the bottom of this as quickly as possible and find lessons learned, find out how much money we can reclaim, if necessary, on behalf of the taxpayers, so that if, indeed, Ms. Druyun's statement is true—and I have no reason not to believe what she confessed to, that she issued a number of contracts that were detrimental to the cause of the American taxpayer—we can reform the system so this kind of thing can never happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask it be in order for me to speak for a couple of minutes as in morning business about some of our retiring Senators.

The PRESIDING OFFICER. The Senate is considering the miscellaneous trade bill. The Senator will need to ask unanimous consent.

Mr. KYL. I ask unanimous consent to speak as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I will not object, but I would like to see if I can ask if I can be recognized after the Senator completes his remarks?

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

TRIBUTES TO RETIRING SENATORS

Mr. KYL. Mr. President, obviously, in the brief time here I am not going to be able to say everything that comes to mind about the Senators who are retiring but to summarize a little bit of the information for the benefit of those who might be watching.

When you have long, distinguished careers of Senators and they decide not to run for reelection but leave the body, there is a lot that comes to mind about their service. I think it is good to remind ourselves of just a few of these things because of the service they have provided, both to the people of their own States and to the United States.

DON NICKLES

Starting, for example, with our colleague from Oklahoma, DON NICKLES, he served both in the leadership of the Senate Republican Conference as well as chairman of the Budget Committee. The last 2 years of his time, during his chairmanship of that committee, he was deeply involved on behalf of taxpayers in saving literally hundreds of billions of dollars in taxpayer money that might otherwise have been spent but for his hard work in ensuring that we had the procedural mechanisms in place to object to excess spending.

Second, ensuring that taxpayers could keep more of their money. Helping to get passed significant tax reform, especially during the first term of President Bush, the 2001 and 2003 tax cuts in particular, coupled with the tax cuts of this past year, has meant substantial savings for all American taxpayers.

The marginal rate reductions accelerated in 2003, and the reduction in capital gains and dividend tax rates, have been a substantial reason that the economy has moved forward as quickly as it has.

Senator DON NICKLES was significantly involved in every one of those, and his leadership in tax policy is going to be sorely missed when he leaves the Senate.

He got his start in Nickles Machinery back in Ponca City, OK, and he understood early on the lessons of how Government involvement in business could make it much more difficult to not only grow a business but to employ people and to contribute to the economy. It is one of the reasons, when his father passed away, that he began to understand how the estate tax can act in a pernicious way on American families when his business had to actually sell off part of its equity in order to pay the estate tax, to make it more difficult for them to stay in business, to employ the people they did, and do the work they did. He understood, therefore, from practical experience why we needed to reform the Tax Code, and he was instrumental in the reformation of the estate tax as well with the spouses' deduction, which was largely his work.

There is so much more one could say about the efforts of Senator DON NICKLES. He is a great friend of all of us. In addition to being very focused on getting the work done, he always managed to do so with a smile on his face and a slap on the back in a way that made it hard for people to disagree with him even when they didn't particularly follow his legislative agenda.

DON NICKLES will be very much missed in the Senate. He leaves, even after 24 years, at such a young age that he will be in Washington and around this country in a way to continue to have interaction with us. We all cherish that because of our friendship with DON NICKLES.

It is bittersweet that DON will be leaving the Senate, but we know after his significant contributions to this country he certainly deserves an opportunity to move on.

SENATOR BEN NIGHTHORSE CAMPBELL

Mr. KYL. Mr. President, I wish to say a word about another of our colleagues, BEN NIGHTHORSE CAMPBELL. Senator CAMPBELL and I served together in the House of Representatives. He is unique in the history of the Senate. He is a Native American who came first to the House and then to the Senate. He represents the people of the State of Colorado, as does the Presiding Officer, with distinction. He is a real man of the people. He is a jeweler, a motorcycle enthusiast, a real athlete—an Olympian, as a matter of fact, in judo. He is a man whose interests are extensive beyond the kind of humdrum interests sometimes we in the Senate focus on. He brought a lot of spirit and a lot of light to this body. I know BEN will be missed by every one of us as well.

SENATOR PETER FITZGERALD

Mr. KYL. Mr. President, my colleague PETER FITZGERALD from Illinois is an extraordinarily smart and focused individual who came to the Senate to represent his State of Illinois and did so with great passion, enthusiasm, and courage, in some cases, when he had to stand against a lot of other Members who were attempting to act in ways he felt were inimical to the interests of his State.

PETER FITZGERALD, though here only one term, I think will be remembered as a great Senator from the State of Illinois and certainly a colleague I will miss personally.

SENATOR ZELL MILLER

Mr. KYL. Mr. President, let me mention our colleague ZELL MILLER. ZELL

MILLER is another person who will be in the history books of this body because of his passion and because of his unique character as well. He is probably best exemplified by one of the books he has written called ''Corps Values,'' obviously a reference to the U.S. Marine Corps, in which he describes how a lot of the values that have animated the course of his career and the values he has held dear throughout the rest of his life came from his training as a marine and from his drill sergeant whom he describes so vividly in the book as having almost literally pounded some very important lessons of life into ZELL's head at a very young age—lessons that he took away to apply throughout the rest of his life and which have stood him in very good stead throughout his career.

He has represented the people of his State of Georgia with passion and with great capability, not only as Governor but then to come to the Senate. He has certainly been a friend of people on both sides of the aisle. He is a Democrat, but he still, of course, has many friends here on the Republican side of the aisle.

I can't think of ZELL without thinking of some of the more humorous things he has done as well because despite his passion and enthusiasm, he also has a very good sense of humor. I remember one case in particular when he and Phil Gramm from Texas, who has left the Senate, teamed up to offer an amendment which had no chance of passing. There was no real rationale for it. It was an amendment to exempt pickup trucks from the mileage standards we were going to apply to all other vehicles in the Energy bill, but they thought there was something kind of un-American about having these standards applied to pickup trunks. The two of them offered the amendment.

During the course of the debate, more and more people came over here to listen to them. Their case made such great sense that one by one the Senators began to think maybe this is an amendment that ought to pass. At the end of the day, when they pointed out that, after all, there was no other place to haul your coon dogs when you are going to hunt, or have the rack for your gun, and all of the other things they pointed out what a pickup is for, and no other vehicle could do that job, the Senate finally, I think on a voice vote, acquiesced in their amendment. Because, after all, it made sense when ZELL MILLER and Phil Gramm argued that pickup trucks should be exempted from that standard, we exempted pickup trucks from that standard.

In other words, they knew how to have fun with the seriousness of this body to point out some of the commonsense things most Americans believe and we sometimes forget here in this body.

He is a man of great common sense, a man of the people who loves America greatly, and who certainly inspired me, Senator ZELL MILLER from Georgia.

These are only four of the colleagues who are going to be leaving us at the end of this session. These are Senators whom I became particularly close to. I wanted to say a word about each one of them, to wish them all the very best, bid them farewell, also to know they have too many friends around here to ignore. And we are going to be staying in touch with every one of them.

We thank them for their service to the people of their States, to the Senate, and to the people of the United States of America.

The PRESIDING OFFICER. The Senator from Massachusetts.

IDEA

Mr. KENNEDY. Mr. President, a little later today, the House and the Senate, Republicans and Democrats, will come together for a monumental achievement to strengthen special education for millions of children with disabilities.

The agreement we have reached demonstrates what Americans have to come to realize—that students with disabilities are a far too important priority to be used as a political tool or cast aside because of an election schedule. Their education is not a partisan issue. It is an issue that touches families in every State and in every community.

This has been a long and arduous march for our country as we fought to recognize the civil rights of children with disabilities. When Congress first passed IDEA, disabled children were shuttered away. They had no place in our society. We have all heard the horror stories. There is no need to revisit those dark days, but we should never, ever forget from where we have come.

Then they were sent to separate schools. We know from another battle for integration that separate and equal are not synonymous. All of our children must be educated under the same schoolhouse roof.

Gradually, they were allowed to attend regular public schools, but had to remain in separate wings in those schools. Still, separate and unequal.

At long last, America is coming to know what parents of disabled children have known all along—that their children have hopes and dreams, just like every other child—that they have parents who love them and want the best for their children, just like any other parent.

America is coming to learn that children with disabilities want to be asked what every other child is asked: ''What do you want to be when you grow up?''

America is coming to understand that disabled does not mean unable—that we shortchange our communities when we deny them the gifts and contributions of those with disabilities.

So today, all children in America—including those with disabilities have—the right to a free and appropriate education. No one can take that away. And now, 6.5 million children with disabilities attend public schools, and two-thirds of them spend most of the day in a regular education classroom.

The IDEA is about making a better life for children like Zachary Morris of Newton, MA, who has Down's syndrome. Zachary enjoys reading, and loves to play the characters in Dr. Seuss books in class.

It is about Valerie Sims of Attleboro, MA. When her mother Katie noticed her daughter was having difficulty reading at home, she asked her school for an evaluation. The school discovered that Valeria has a learning disability. She spends a couple hours a day in a special classroom and now is able to read at grade level.

The bill before the Senate is a milestone. With this legislation, the debate is no longer whether children with disabilities should learn alongside all other children, but how best to do it. That is why this bill strengthens services to disabled children, works with their parents, improves teaching, and provides practical help to their schools.

This bill also involves changes in the IDEA law, changes which I know cause uncertainty and anxiety for many parents here today, especially when it comes to the proposed new discipline procedures. With the help of Senator SESSIONS, I believe we have reached a workable compromise. It makes sure no child is ever punished for behavior that is caused by their disability or has to go without the educational services they need to meet their goals. And for students whose behavior is caused by their disability, they will get new help under this compromise.

I know that around other issues related to discipline, many parents are worried that the changes in this bill will take away their rights to fight for their child. I want to address several of these issues to clarify what the intent of the conference committee was in making these changes and to reassure parents that we are not, in any way, taking away their rights.

Parents must be trained to be knowledgeable about the changes that were made in this bill and to be skilled advocates for their children. We must assure that misinformation is corrected so that parents do not believe that this bill stripped them of rights to advocate for their children and if necessary have representation by lawyers.

For example, this bill incorporate for the first time, well established civil rights guidelines setting forth the rare circumstances when school districts can recover fees from parents or their attorney's. These standards were developed in Christiansburg Garmet Co., v EEOC, 1978. Defendants can only get fees against a parent's attorney if the case is wholly without legal merit and against parents only in the most egregious case where the parent acts in bad faith, knowingly filing a complaint for the sole purpose of embarrassing or harassing the school district. Since we know that parents of children with disabilities are far too busy to file complaints on these grounds, we do not expect this provision to be used by Local Educational Agencies and State Educational Agencies. No parent should be

in any way deterred from filing their legitimate complaint on behalf of their child.

Another example is that this bill for the first time provides a timeline for when a parent must file a due process complaint. Although the complaint must be filed within 2 years of the alleged violation, the remedy for lost services is not limited to 2 years. For example, a parent might first realize that their child may have a learning disability in sixth grade. If the school should have assessed the child in first grade and provided services, compensatory education would need to cover the entire period. The child with a disability should never be deprived educational opportunity because the schools are not holding up their end of the bargain.

This is also true for disciplinary matters. If the school has not developed an appropriate IEP or has failed to implement the IEP, the child should not be disciplined for conduct arising from the school's failure. It goes without saying that a child should never be punished for conduct that arises from the disability itself. Since the ''manifestation determination'' is so critical, it is imperative that parents be trained how to be skillful advocates in the manifestation determination process. A child with a disability may engage in the same conduct as a child without a disability, but not have the same ability to understand or control the conduct. In these situations it is inequitable to treat the children the same for disciplinary purposes.

This bill aims at remediation, not punishment. By adding strong requirements for functional behavioral assessments and positive and skillful behavioral interventions, we hope to address the conduct before it becomes misconduct. Suspensions and expulsions are the easy way out and I encourage school districts across the country to institute positive behavioral supports for all children. For the schools that have, the results have been remarkable. I strongly urge school districts to apply educational approaches and to use disciplinary approaches as a last resort.

Regarding the important issue of attorney's fees a sentence in the Statement of Managers' language of the conference report that provided the explanation for the attorney's fees language was inadvertently left out. By adding at Note 231 sections detailing the limited circumstances in which Local Educational Agencies and State Educational Agencies can recover attorney's fees, specifically Sections 615(i)(3)(B)(i)(II) and (III), the conferees intend to codify the standards set forth in *Christiansburg Garment Co.* v. *EEOC*, 434 U.S. 412 (1978).

According to Christiansburg, attorney's fees may only be awarded to defendants in civil rights cases where the plaintiff's claims are frivolous, without foundation or brought in bad faith.

The primary contribution of this legislation is that it strengthens the broader community of those involved in the education of our children, and gives them a greater stake in the success of our children.

For our children, this bill provides at least 30,000 additional fully certified special education teachers in our schools. It will expand access to technologies that will help disabled children learn and become independent.

And for the first time, we will ensure that students with disabilities are provided with job training and other services that enable them to support themselves after they graduate. Five years after they complete their special education programs, more than half of those with disabilities still are not working or are not involved in continuing education. We spend more than $12 billion for their education, only to abandon them once they finish school. Surely, we owe it to them, to their parents, and to our communities to provide the training and support they need to lead independent lives.

Our agreement will simplify the rules for services that help disabled students make the transition from the classroom to the rest of their lives. It requires early planning, and that transition services begin at age 16. It requires the evaluation of all students with disabilities to assist them in meeting post-secondary goals, and to help them apply for jobs, after graduation.

While the major transition provisions included in the Senate bill are not in this bill, Chairman BOEHNER assures me that they will be included in job training legislation next year.

Students with disabilities, more so than their peers, need an education plan that takes into account their academic needs, but also their life goals. Because for children with disabilities, success means more than learning the three R's, it means being able to live independently after they leave school and to contribute and be a part of their community. For this reason, this bill makes sure that a child's education plan lays out a clear roadmap to success in school and in life.

Related services, such as speech and language therapy, physical and occupational therapy, and psychological services are of extraordinary importance for disabled students and the IDEA law has always included them. This bill adds new services, such as interpreters and school nurses.

For parents, this bill assures that they have a strong voice in their children's education. It makes sure that students are evaluated quickly for IDEA services when a parent calls for them, and it works with parents to improve the coordination of educational services for students who change schools during a school year. Parents need to be kept informed of their children's progress. It requires all schools to give parents quarterly reports about their child's progress.

It provides new resources to parent training centers to help resolve disputes between parents and schools, and it gives parents more flexible options to participate in their child's education. And above all, it holds schools accountable for results, and imposes sanctions on States that ignore the law, so that parents don't always have to fight failing schools alone.

For too long, the Department of Education has been a toothless tiger, with little interest in monitoring State compliance with the law and with too few tools to take action where there's need for improvement. We know that as a result, States are woefully out of compliance with the law. Every reliable source shows it, and it's the children who pay the price of this negligence.

According to the National Council on Disability, every State in the country is out of compliance with this law in some way.

A recent General Accounting Office report identified compliance failures in 30 of the 31 States visited. Over half of the failures were directly related to providing student services, the lifeblood of the IDEA, services such as counseling, speech therapy and assistive technology, which make the impossible possible.

The monitoring and enforcement provisions in this bill will hold the Department of Education to a higher standard. And it will improve their capacity to hold States accountable for fixing problems.

For teachers, the bill provides new training opportunities. And it recognizes that special education teachers face 2½ times the paperwork burden as other teachers by allowing 15 States to test new ways of giving teachers more time with students and less with needless paperwork.

It streamlines State and local requirements to ensure that paperwork focuses only on improving educational results for children with disabilities and it requires the Secretary of Education to develop simple model forms for individual education plans and other key requirements.

Teachers, principals and other school personnel are also given improved training options and special grants dedicated for this purpose. And a new grant program is created to help institutes of higher education to train our teachers.

States and local schools are allowed to use funds to provide professional development for teachers.

The new law also expands training options for general education teachers, principals and other administrators in how to make the IDEA work for their whole school community.

Most importantly, the bill sets a high standard of competency for special education teachers to meet so disabled students get the best education possible from the best trained professionals.

Special education teachers are modern-day heroes. They are teachers because they care and they do a remarkable job. But we are facing a shortage

crisis now, and in the coming years. One of the reasons so many teachers leave special education is they are not adequately prepared for the job. Better trained teachers remain in the field for longer and improve the results for students.

In No Child Left Behind we made a commitment to have a highly qualified teacher in every regular education classroom, and with this bill we do the same thing with students with disabilities. The new law requires that all special education teachers obtain a bachelor's degree, hold a license in their State to teach special education, and demonstrate subject knowledge. It is the right thing to do for students and it will help schools meet the goals under No Child Left Behind. These teachers need our support, and they will receive it as they work to meet these new, high standards.

For communities—for students and parents and teachers and schools—this bill encourages everyone to work together to solve problems and meet challenges. It says that if children must be removed from school for disciplinary reasons, the community must continue to see to the educational and other needs of those children. Far too often, issues between parents and schools quickly wind up in court. This bill tries to resolve them first through a complaint process before resorting to litigation. But it also preserves parents' rights when they do go to a formal due process hearing. It encourages parents and schools to share information to facilitate early and more effective resolution of disputes.

The law will require all schools to measure the academic performance of students with disabilities on all State and district-wide assessments, including alternate assessments aligned to a State's academic content standards or extended standards. It requires all States to include students with disabilities who take alternate assessments in their No Child Left Behind accountability systems.

Communities win with this bill when it comes to financing the education of disabled children, too. They contribute the majority of funds to educate disabled students, and we recognize that by giving them a greater say over how they spend Federal funds.

I deeply regret this bill does not require the Federal Government to meet its full funding commitment to local schools to help them cover the costs of special education. The bill at least sets specific funding targets, and we will continue to fight next to see that Congress and the administration meet them.

Meeting local needs also includes continuing support for early intervention programs. We know early intervention for our youngest children ages zero to 3 can make an enormous difference in their development, and that dollar for dollar these resources are one of the most effective investments we can make.

This law also gives States the incentives and the authority to create a seamless system of early intervention from birth through kindergarten so our youngest children get the best care possible and enter kindergarten ready to learn.

As a society, we are judged by how we treat our children, and we are measured especially by how we treat those children with special needs. That is why I believe so strongly in the right of every child to a free and appropriate education, and I believe this bill advances that cause.

I thank the many people who brought us successfully to this day. First and foremost, I commend the thousands of parents who made their views known in shaping this legislation. They have been citizen leaders at their very best. Chairman BOEHNER, Senator GREGG, the chairman of our committee, and Congressman MILLER deserve special thanks for their leadership in producing an agreement with such strong and overwhelming support.

I might mention, Mr. President, the vote in the House of Representatives was 397 to 3 on this legislation. The House voted earlier today. It reflects the best judgment of Republicans and Democrats in both bodies on an issue of such fundamental, basic importance to families who have the special-needs children but to all Americans who care about the quality of our society and the value this Nation places in terms of understanding the special gifts special-needs children provide for their families and for communities and for our country.

I also commend Senator SESSIONS for his bipartisan work in dealing with the discipline issue, which has needlessly plagued the debate on IDEA for so long.

Senator HARKIN is always at the forefront of the movement for equal rights for all persons with disabilities, including children. He has led the effort for positive support for all students with disabilities, and his best ideas are in this bill.

Senator DODD and Senator JEFFORDS worked effectively on this legislation to improve early childhood programs. They have been two pioneers in the development of the legislation since the very beginning, and they have been absolutely tireless in pursuing positive, constructive, responsive changes in these programs. They are both leaders on children's programs in the Senate.

Senator BINGAMAN fought for strong enforcement of civil rights protections for every disabled student. Senator MIKULSKI strengthened support for students making the transition from schools to careers. Senator REED improved the training and recruitment of special education teachers. Senator MURRAY improved the provisions on enforcement and the monitoring of the law and for caring for homeless and foster care children so they do not fall through the cracks. Senator CLINTON deserves credit for her work to ensure that new funds are provided to improve the quality of alternative student placements, to provide more effective behavioral support for students, and to see that all schools are safe schools.

Thanks especially to the staff, who worked endless hours over the past few weeks to produce this bill.

All of us are grateful to Denzel McGuire, Annie White, Bill Lucia and Courtney Brown on Senator GREGG's staff for their dedication to making this bipartisan process work, and to Michael Yudin with Senator BINGAMAN for his expert counsel.

Also to Sally Lovejoy, David Cleary, Melanie Looney, Krisann Pearce and Brad Thomas with Congressman BOEHNER; Alex Nock, Alice Cain and Ruth Freidman with Congressman MILLER; John Little with Senator SESSIONS; Mary Giliberti and Eric Fatemi with Senator HARKIN; Elyse Wasch and Seth Gerson with Senator REED; Maryellen McGuire and Jim Fenton with Senator DODD; Bethany Little, formerly with Senator MURRAY's staff; Jamie Fasteau with Senator MURRAY; Justin King and Jean Cook with Senator JEFFORDS; Catherine Brown, Susie Saavedra and Maryana Zubok with Senator CLINTON; Carmel Martin, formerly with Senator BINGAMAN's staff; Sara Vecchiotti with Senator BINGAMAN; Rebecca Litt with Senator MIKULSKI; Erica Buehrens with Senator EDWARDS; Joan Huffer with Senator DASCHLE; Bethany Dickerson with the Democratic Policy Committee; and Kristen Bannerman with Senator ALEXANDER.

I especially thank Jeremy Buzzell, Michael Dannenberg, Charlotte Burrows, Jim Manley, Jane Oates, Roberto Rodriguez, Kent Mitchell, Cody Keenan, Danica Petroshius and Michael Myers on my staff for their skillful work and dedication, and above all Connie Garner for all she has done for children with disabilities and their families and for never letting us forget what this law is really about.

Our thanks also go out to the hundreds of disability and education advocates across the country who worked so hard on this legislation.

This bill represents our best bipartisan effort, and I look forward to its immediate and imminent passage and strong support from both sides of the aisle.

Mr. President, before concluding—and I am going to include an appropriate number of these letters in the RECORD—we asked, just several weeks ago, some of those children whose lives will be impacted by this legislation a question. We sent them this question:

> Take a few minutes to think about being an adult. What will your life look like? How do you think that school can help prepare you to be the best that you can be and make some of your own dreams for your future come true?

This is the answer from an eighth grader:

> I want to be a doctor. I know that if I try hard to read well, I can learn better and then

I have a chance to be a doctor. Teachers like Mr. McKenzie and Ms. Ann help me to learn and make me feel good.

The question was:

Take a few minutes to think about being an adult. What will your life look like? How do you think school can help prepare you to be the best that you can be and make some of your own dreams for your future come true?

Again, this was a sixth grader:

I want to be an art teacher when I grow up. I want to learn all about and to be able to work with clay, paints, pencils and everything. I want to teach kids like me.

Mr. President, we have a book that I will not, obviously, put in the RECORD, but we have a number of letters like that. The hopes and dreams of these children are the hopes and dreams of children all across the country. This bill will help those hopes and dreams be achieved.

I see my chairman on the floor at this time. Again, I thank Senator GREGG for his work.

We have worked very closely on this legislation and other legislation, No Child Left Behind. He was tireless in terms of trying to increase funding for the IDEA. We had differences. Some of us felt we ought to move in a more rapid way, but he has certainly been strong and committed to the goals of this legislation over a long period of time. He is giving up the chairmanship of this committee to go on to other service in the Senate. I think all of us who have been a part of this pathway on IDEA are particularly in his debt for his leadership and the work he has done on this very important piece of legislation.

Mr. HARKIN. Mr. President, I want to thank my colleagues, Chairman GREGG and Senator KENNEDY, as well as Chairman BOEHNER and Representative MILLER, for conducting a truly bipartisan conference. When the legislative process is working properly, we have a fair negotiation—and more often than not, that produces a better bill. Not a bill that gives each of us everything we wanted, but a fair result given the two bills that we are charged with reconciling. And that is what we have here.

Last week, Washington Post's internet site ran a cartoon by Ted Rall that was one of the most egregious things I have ever seen. I don't know if many of you saw it, but it showed a student in a wheelchair with crossed eyes and drool coming from his mouth. He had joined a class of students without disabilities and here is what one of the panels of the cartoon read, ''The special needs kids make people uncomfortable and slow the pace of learning.'' The cartoon showed the class changing from higher level math to simple addition because of the special education student.

The cartoon was supposed to be some kind of analogy to the United States, but it was very hard to understand the point. What was crystal clear, however, was the author's bigotry and stereotyping of children with disabilities. I understand that the Post will no longer run cartoons by Mr. Rall because cartoons like this are not funny. They are hurtful and serve as a stark reminder of why we are here and why IDEA is such important civil rights legislation.

I was here in Congress in 1975, as were some of my Senate colleagues, when IDEA was enacted. And it is important to remember why we passed this legislation in the first place. We passed it because bigotry and discrimination were keeping a million children with disabilities completely out of school. Those children were locked out of an education and denied the bright future that comes with an education. IDEA opened the doors of opportunity for those children.

I have participated in many subsequent revisions to the law over the past 29 years. And I am supporting this reauthorization because we continue our proud tradition of ensuring that children with disabilities have the right to a free, appropriate public education, FAPE. In addition, we improve the enforcement of that right.

Over the years, I have been involved in the debate about disciplining students with disabilities—and this was a major issue for the conferees. I know that parents were very concerned about changes to this section of the law. I appreciate and understand those concerns because I have shared them.

While this reauthorization streamlines the discipline provisions, it continues several key principles. We will continue to consider the impact of the disability on what the child is doing and we will not punish children for behavior that is related to their disability. It is also important that we continue to require that children receive educational services when they are being disciplined so they do not fall further behind. We also continue to emphasize that an assessment and services must be provided to children who have more serious behaviors so we can prevent future discipline problems.

I believe that discipline will become less and less of an issue over time as schools implement positive behavior supports more widely. Section 614(d)(3)(B), entitled consideration of special factors, was added in 1997 to provide special emphasis on certain related services, modifications and auxiliary aides which were not being considered by IEP teams and therefore not provided. The Senate bill modified subsection 614(d)(3)(B)(i) to state that behavioral supports must be provided when the child's behavior impeded his/her education or that of others. In conference, current law was re-instated in order to make the subsection consistent with the other special consideration subsections.

By instructing the IEP team to consider the specified services, it goes without saying that the services must be provided if the IEP team finds that the services will assist the child in benefiting from his/her educational program. In the case of behavioral interventions, the section sets forth the circumstances when the services would be required.

The regulations to IDEA specify that ''if, in considering the special factors ... the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.'' 34 C.F.R. Sec. 346(c). And IEP services must be provided to the student. See Office of Special Education Programs Letter to Osterhout, 35 IDELR 9 (2000).

There has been widespread noncompliance with this requirement. However, with reauthorization's increased emphasis on monitoring and enforcement, we expect that this implementation will improve. Children whose behavior is impeding them or others from learning should get the positive behavioral supports they need when the IEP team considers this issue and finds that the services are part of FAPE for that child.

In addition, we allow schools to use up to 15 percent of their funds to address behavior issues for children who have not been identified as special education students. Also, Senator CLINTON has worked to include authorization for a program that would provide funding for systemic positive behavioral supports in schools.

Research by Dr. George Sugai and others indicates that the implementation of positive behavioral supports can have a dramatic impact on disciplinary problems. Dr. Sugai testified in 2002 before the Health, Education and Labor Committee that by shifting to schoolwide positive behavioral supports, an urban elementary school decreased its office referrals from 600 to 100. It also decreased in 1 year its days of suspension from 80 to 35. Schools can save administrators' time and resources and cut down on discipline problems by implementing these programs.

Another area that generated discussion in this reauthorization is litigation and attorneys fees. However, the facts show that there is very little litigation under IDEA. GAO examined the data and concluded that the use of ''formal dispute resolution mechanisms has been generally low relative to the number of children with disabilities,'' according to a 2003 report titled, Special Education: Numbers of Formal Disputes Are Low and States Are Using Mediation and Other Strategies To Resolve Conflicts.

My own State of Iowa follows the general trend of very low hearings and court cases. A graduate student in Iowa did a thorough analysis of due process hearings in Iowa from 1989–2001. Since the amendments in 1997, there were three hearings in 1998; three also in 1999 and four hearings in 2000. The Department of Education informs me that this trend continues, with only

three hearings in each of the past 2 years. And there are thousands of children in special education in the State of Iowa.

Given the fact that litigation is generally not a problem in IDEA, in this reauthorization we merely include a standard that is used in other civil rights contexts—it is generally referred to by the case, *Christiansburg Garment Company* vs. *Equal Employment Opportunity Commission*, 98 S.Ct. 694 (1978). Both prongs of the Christiansburg standard (filing or pursuing litigation that is groundless or for bad faith/improper purpose) adopted today are very high standards and prevailing defendants are rarely able to meet them. They are designed for only the most egregious cases.

Also, in deciding cases under this standard, courts have considered the party's ability to pay. This is important because Congress does not intend to impose a harsh financial penalty on parents who are merely trying to help their child get needed services and supports. So in applying this standard and deciding whether to grant defendants' fees, the court must also consider the ability of the parents to pay.

A school district would be foolhardy to try to use these provisions in any but the most egregious cases. Not only would the school be wasting its own resources if it did not prevail, but it would be liable for the parents' fees defending the action.

Unlike parents who are entitled to attorney fees if they win the case, the fact that a LEA ultimately prevailed is not grounds for assessing fees against a parent or parent's attorney. As the Supreme Court concluded in Christiansburg, courts should not engage in ''post hoc reasoning by concluding that, because a plaintiff did not ultimately prevail, his action must have been unreasonable or without foundation. This kind of hindsight logic could discourage all but the most airtight claims, for seldom can a prospective plaintiff be sure of ultimate success.''

As GAO found, there has been a low incidence of litigation under IDEA. The cases that are filed are generally pursued because parents have no other choice. Congress does not intend to discourage these parents from enforcing their child's right to a free, appropriate, public education. This is merely to address the most egregious type of behavior in very rare circumstances where it might arise.

In this reauthorization, we also include a 2-year statute of limitations on claims. However, it should be noted that this limitation is not designed to have any impact on the ability of a child to receive compensatory damages for the entire period in which he or she has been deprived of services. The statute of limitations goes only to the filing of the complaint, not the crafting of remedy. This is important because it is only fair that if a school district repeatedly failed to provide services to a child, they should be required to provide compensatory services to rectify this problem and help the child achieve despite the school's failings.

Therefore, compensatory education must cover the entire period and must belatedly provide all education and related services previously denied and needed to make the child whole. Children whose parents can't afford to pay for special education and related services when school districts fail to provide FAPE should be treated the same as children whose parents can. Children whose parents have the funds can be fully reimbursed under the Supreme Courts decisions in Burlington and Florence County, subject to certain equitable considerations, and children whose parents lack the funds should not be treated differently.

I also want to discuss the monitoring and enforcement sections of this bill. I want to thank Senator KENNEDY for his leadership on this issue. Again, GAO has issued a report that has informed our deliberations around this issue. They noted that the Department of Education found violations of IDEA in 30 of the 31 States monitored. In addition, GAO found that the majority of these violations were for failure to provide actual services to children. That report, issued this year, is titled, Special Education: Improved Timeliness and Better Use of Enforcement Actions Could Strengthen Education's Monitoring System.

When we passed the Americans with Disabilities Act, we said that our four national goals for people with disabilities were equality of opportunity, full participation, independent living, and economic self-sufficiency. But children with disabilities are never going to meet any of those goals if they don't get the tools that they need when they are young. So if we truly want equal opportunity for individuals with disabilities, it has to start with IDEA, and with our youth, who are our future. The law must be enforced so they receive the services and supports they need to get a quality education and a brighter future.

As part of the enforcement of this law, States must ensure that local education agencies are meeting their targets to provide a free, appropriate public education. If they fail to do so, the State must take action, including prohibiting the flexible use of any of the local education agency's resources.

In addition to monitoring and enforcement, there are other improvements in this bill. I will mention one area that is near and dear to my heart because of my brother, Frank, who many of you know, was deaf. In this bill, we add interpreter services to the list of related services, a change that is long overdue. And we continue to require the Department of Education to fund captioning so deaf and hard-of-hearing individuals will have equal access to the media.

While I support the bill, I must point out, however, that I am deeply disappointed that this bill does not include mandatory full funding of IDEA.

SECTION 615(K)

Mr. President, I say to my colleague, Senator KENNEDY, with whom I have worked on these issues for many years, there are revisions in this bill to the provisions concerning the authority of school personnel to place a student with a disability in an alternative educational setting. That is section 615(k). As you know, this was a subject of much discussion when IDEA was reauthorized in 1997, and I think we reached a good balance at that time. Is there an attempt here in this new reauthorization to change the balance we created in 1997?

Mr. KENNEDY. I can answer without hesitation that there is no attempt to change the basic principles of what was done in 1997. As was recognized at that time, the general rule is that a child with a disability cannot be suspended or placed in an alternative placement for more than 10 days. In order to meet safety concerns of school personnel, Congress added specific exemptions in 1997 to deal with the most dangerous situations. In keeping with that concern, the school may place a child in an alternative setting if he has inflicted serious bodily injury on another person at school. However, even in these circumstances, the child may not be removed for more than 45 days and must receive a free, appropriate, public education and behavioral supports in the alternate setting.

Mr. HARKIN. I thank my colleague, and I agree with his explanation. I ask the Senator, what about the child with a disability who violates a code of conduct in a way which does not reach that level of dangerousness? In 1997, we distinguished between situations where the conduct was related to their disability and those where it was not. Is this distinction also preserved in our new bill?

Mr. KENNEDY. Absolutely, it is a basic premise of disability civil rights law that someone should not be punished for disability-related conduct. Nowhere is this more true than in the educational setting. That is why we have placed an emphasis on functional behavioral assessments and positive behavioral supports. We want to address behavior educationally, hopefully before it becomes misconduct.

Mr. HARKIN. I wonder whether my colleague believes this reauthorization changes the factors for deciding whether the behavior is a manifestation of the disability?

Mr. KENNEDY. I say to my friend from Iowa, the answer is no. While there was an attempt to streamline the language, the information that should be reviewed and the factors that should be considered should be the same. In 1997, the act set forth specific instances when the child's behavior would be a manifestation, when the child's disability impaired the ability to understand or control the behavior, or when the individualized education program

or IEP was not being appropriately implemented. These instances would still constitute grounds for finding that the conduct is a manifestation of the disability, as would any other relevant factor or special circumstance which indicated that the conduct in question was caused by, or in the alternative, substantially related to the child's disability. If the student's conduct is a manifestation of their disability, the student may not be moved to an alternative placement for more than 10 school days unless one of the specific dangerousness exceptions apply.

Mr. HARKIN. I thank my colleague for his explanation.

Mr. GREGG. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

Mr. GREGG. Mr. President, let me first thank the Senator from Massachusetts for his very generous comments, but more importantly for his extremely positive and constructive and aggressive role in bringing this bill to fruition. He and his staff have done an exceptional job of reaching across the aisle to make sure that this bill, so critical to so many children in our Nation, was completed and completed in a manner where everybody could feel comfortable that the product was good and was going to improve the lives of these special-needs children.

This bill has some exceptional strengths. It doesn't respond to all of the problems we know are out there relative to IDEA, but it makes dramatic strides forward in improving this very significant piece of legislation, which many of us have worked on for a long time. I think it is a reflection of the good faith and the good attitude brought to the table that we were able to reach an agreement.

This was not an easy piece of legislation to put together. It came together not only because of our side, in the Senate, with myself, Senator KENNEDY, and other Members of the committee, but because over on the House side Congressmen BOEHNER and MILLER played a very positive role in making sure we reached an agreement.

This bill's uniqueness is that it changes the paradigm relative to how we help these children. The goal is to make sure the special-needs children have a reasonably decent shot at making sure they accomplish as much as they are capable of accomplishing. So we go from an input system, where we had a lot of T's to cross and I's to dot, where we ask are these children getting the best education they can get, and are there results? It is an output look, a look at accountability to make sure these children are trained and given skills and the academic preparation they need. So it changes the emphasis of IDEA to that of being one of input and regulation—to say how far can we go to improve this child's life and education capabilities? We have trained the teachers and given them more flexibility, hopefully, and less regulation and less paperwork and more time with students. We also hope we have given parents tools to work with and given the school board tools to work with. We hope we have dramatically released the litigiousness of this exercise that created an atmosphere where parents and school boards and teachers can work out a game plan for their children and not feel they have to resort to lawsuits.

In addition, we have addressed critical issues, such as the question of discipline in the classroom and how best to deal with a child who has special needs, and how that child can interface with the classroom in a positive way. I thank Senator SESSIONS for that. This was the most difficult part of the bill. Senator SESSIONS gave strong leadership and we were able to work out a strong compromise.

Again, the reason this bill succeeded was because everybody came to the table in good faith and tried to reach an agreement that would be positive for the children who have special needs in our Nation. And we have been successful, in my opinion, in moving this ball well down the field toward that goal. Will there need to be more tweaking and effort in this area? Of course. That is a fact of life. But have we made dramatic strides toward giving these children a better shot at a better life? Absolutely, under this legislation.

Senator KENNEDY listed all the different Members on his side and many on ours who played a major role in making this bill work. I intend to put those in my statement, as I recognize my time is limited. A lot of players came to the table from a lot of different offices—on the staff side but, more importantly, on the Members' side, and worked very constructively. Certainly, we appreciated the genuine effort put forward by Members who serve on the HELP Committee to reach agreement here.

I especially thank Denzel McGuire of my staff, who leads our education activities. She has been the author and the energizer of a lot of good law around here. Much of it is now bearing fruit; for example, No Child Left Behind. This will be another legacy of hers, in which she can take great pride, and in which I also take great pride.

Again, I thank my ranking member, Senator KENNEDY, and his staff, including Connie Garner, for their very constructive role and their willingness to work so aggressively with us to reach a product that will have a very positive impact on lives.

This bill is going to make a lot of kids who have special needs, with special problems, have a much better life and a much better chance at an education that fulfills their strengths and gives them a chance to use those strengths in a positive way.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President——

Mr. COLEMAN. Mr. President, I understand the Senator from West Virginia has the floor, and I understand he is going to give a Thanksgiving message. However, I ask the distinguished Senator from West Virginia if he will yield to me for 10 minutes to address the pending measure.

Mr. BYRD. Mr. President, I will be happy to yield.

I ask unanimous consent that I may yield to the distinguished Senator for not to exceed 10 minutes, and that I may then be recognized.

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

Mr. COLEMAN. Mr. President, I rise to address the pending measure, the Miscellaneous Trade and Technical Corrections Act. I was proud to join the bipartisan efforts in the Senate to bring this important legislation to conference. This bill is important to me and to the people of Minnesota because it helps make our State and our Nation more competitive in a world market, which can be pretty rough and tumble.

That said, however, I am equally opposed to the extension of permanent normal trade relations to Laos, a provision slipped into this trade bill in conference committee, notwithstanding the fact that neither the Senate nor the other body voted to include this provision in their respective versions of the bill.

The Laos trade provision was not included in the underlying bill moving through the regular process because, as the saying goes, ''there are some things no amount of sunshine can disinfect.'' That is an apt way to describe the terrible human rights record of Laos. If the United States were to ever extend normal trade relations to Laos under that country's current human rights conditions, it could only be done in this way—without either body addressing the issue head on. It could only be tacked onto a popular piece of legislation that was not amendable, as was the case with the conference committee report, allowing this otherwise unacceptable provision to get a free ride without the scrutiny it deserves.

This provision did not emanate from the Senate negotiators but from the negotiators in the other body. I commend Chairman GRASSLEY and Senator BAUCUS, two good friends, for whom I have the greatest respect, for all the hard work they put into the underlying bill. It is a good bill. But because the bill wound up with this Laos trade provision on it, I was put in the position of having to oppose invoking cloture on the bill, a vote I took earlier today. This is the first time as a Senator I opposed cloture. I did not take this position lightly. I have seen too much good legislation in the Senate die not because it didn't have majority support, but because it could not get a simple up-or-down vote. My vote earlier today was also not easy because I strongly support trade. Minnesota is the seventh largest agricultural export State in the Nation, and twelfth in overall

exports. Trade is good for America and for Minnesota.

Frankly, opposing normalized trade with a country is a tough call, even when trade with that country is of nominal value to the United States, as is the case with Laos. But frankly, there are just some times where the actions of an unapologetic nation are so egregious that is is morally wrong to move forward on trade liberalization with that nation because if would effectively place the imprimatur of the United States on those actions. The actions of Laos rise to this level. I know we will not be able to stop this Laos trade provision today with it being attached to a bill that enjoys such overwhelming support on both sides of the aisle. But I am pleased that a resolution I introduced condemning Laos for its human rights abuses will be taken up by the United States Senate today.

I am pleased to be joined by Senators FEINGOLD, KOHL, and DAYTON on this resolution, and I appreciate the assistance of Chairmen LUGAR and GRASSLEY, Senators BAUCUS and BIDEN as well as the majority leader in helping to work out this very important and very strong resolution. Our resolution essentially says to Laos, you have now got normal trade relations with the United States, now, shape up and rise to that very basic level of human decency expected around the civilized world by today's standards—and probably achieved by most of us in the Dark Ages.

Laos is a Communist nation with a disturbing human rights record, particularly with regard to its treatment of ethnic minorities.

Laos is home to an ethnic minority, the Hmong. The Hmong are a brave and freedom-loving people. During the Vietnam War, thousands of Hmong aided American soldiers. The CIA trained and armed approximately 60,000 Hmong guerrillas to disrupt View Cong supply lines and rescue downed pilots during the Vietnam War. They served admirably and saved American lives.

When Laos fell to the Communists in 1975, the government began to systematically persecute these people, in retaliation for their support of our soldiers and their rejection of communism. Tens of thousands of Hmong were able to flee difficult conditions in Laos, and many have resettled in Minnesota, Wisconsin, and California where they are hard-working, important members of our communities. In fact, this year the U.S. is welcoming another 15,000 Hmong refuges who fear returning to Laos from their camp in Thailand.

Thousands of Hmong remain in Laos, however, and fear for their lives daily.

The Lao Government continues to employ ruthless tactics against them. Amnesty International has accused the government of Laos of using starvation as a ''weapon of war against civilians.'' More recent reports—and even grotesque video footage—suggest the rapes and killings of several young Hmong girls at the hands of Lao soldiers.

Let me give you an example from my State. A constituent of mine, a Lutheran Minister from St. Paul who is Hmong, traveled to Laos last year to translate for two European journalists who were investigating human rights in Laos. During their trip, Reverend Mua and his associates were arrested by the Lao police on suspicion of murder. He was denied consular access for over a week and subjected to a 1-day show trial, after which he was convicted for 15 years in prison. Although he was eventually released after more than a month in captivity—thanks to the hard work of our American diplomats in VientianeReverend Mua's case is one more illustration of the Lao govenment's disregard for human rights and due process, as well as its apparent discrimination against this ethnic minority.

The State Department's Human Rights Report on Laos catalogues the many failings of this regime with regard to human rights. Permit me to share some key findings of this report:

> The Government's human rights record remained poor, and it continued to commit serious abuses . . . Members of the security forces abused detainees, especially those suspected of insurgent or anti-govenment activity . . . Police used arbitrary arrest, detention, and surveillance . . . The Government infringed on citizens' privacy rights and restricted freedom of speech, the press, assembly, and association. . . . The Government restricted some worker rights. Trafficking in women and children was a problem.

The report goes on and on.

According to the U.S. Commission on International Religious Freedom:

> There continue to be serious religious freedom problems in Laos. The government interferes with and restricts the activities of all religious communities . . .

Now the Commission does note some recent improvement by the Lao government.

Nevertheless, ''Lao officials, primarily those at the provincial and local levels, have continued to harass, detain, and arrest individuals reportedly for participating in certain religious activities.'' Bear in mind that this state of affairs—harassment, detention and incarceration for one's religious convictions—is apparently an improvement over the Lao Government's performance of last year.

My office has received troubling reports from Laos about shocking behavior on the part of the Lao military toward the Hmong minority. As I have mentioned, a new video documents alleged rapes and murders of a number of young Hmong girls. The Lao Government, not surprisingly, has disputed these reports. But the areas in which these atrocities appear to have been committed are not open to outside observation. Outside groups are not allowed to enter these communities to verify—or even dispute—these allegations. The Lao Government certainly has acted as though it has something to hide.

This United States is not alone in our concern. In August 2003 the United Nations Committee to Eliminate Racial Discrimination ''deeply regretted that the Lao People's Democratic Republic had failed to honor its obligations . . . expressed its grave concern at the information it had received of serious and repeated human rights violations in that country; was extremely disturbed to learn that some members of the Hmong minority had been subjected to serve brutalities;'' and, ''deplored the measures taken by the Lao authorities to prevent the reporting of any information concerning the situation of the Hmong people . . .''

Finally, they say you can tell a lot about a man by the company he keeps. Let us then consider the government of Laos, which counts among its closest friends such nations as North Korea and Burma. Last year Laotian representatives met with representatives of North Korea where, according to the BBC, ''both sides . . . exchanged views on the need to boost cooperation . . . (in) talks (that) proceeded in a friendly atmosphere.''

And according to the Vietnam News Agency and other sources, in May of last year, ''Top leaders of Myanmar and Laos . . . expressed their delight with the two countries' growing friendship and highly valued the mutual assistance and successful cooperation in the spheres of politics, security, economy, trade and socio-culture.'' I am sure I do not need to remind the members of this body that North Korea is a charter member of the ''axis of evil,'' nor need I recall that this very body has voted twice in the last two years to impose sanctions against Burma. A country that seeks to boost ''friendly'' cooperation with North Korea and delights in its ''growing friendship'' with Burma ought to give us some pause, some opportunity to examine this normalized trade relationship, giving us an opportunity to vote against it rather than putting it in a bill we all know will pass.

I believe in trade. I believe it helps the people in my state, and that it can help to create a more inter-connected and ultimately more peaceful world.

But I am wary about the signals we send by extending permanent normal trade relations to a nation with such an abysmal human rights record.

The timing is particularly troublesome, coming as it does on the heels of such highly disturbing reports.

I wish we had an opportunity to debate this issue on its face. I wish we had a chance to hold a hearing on trade with Laos, or to debate it as part of an amendable piece of legislation. My colleagues in the other body also wish they had been afforded the opportunities, or even been advised of the inclusion of the Laos measure in what is otherwise a very popular bill. I will be watching Laos closely and if progress is not made, expect to revisit this issue.

I know my colleague, Senator FEINGOLD, will expect to revisit the issue. This is a bipartisan issue.

Finally, let me say, 99 percent of this bill is good for the country and good for Minnesota. My home State has a strong tradition in support of trade, and normally the underlying bill would be a slam-dunk back home. But Minnesota also has a strong tradition of respect for human rights and the culture of life, and at least with this Senator, and with respect to this extremely egregious case, the human rights and the culture of life must be the first consideration.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is to be recognized.

Mr. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that I may speak without regard to germaneness, with the understanding that the time be charged against me under the cloture rule, and that I not speak beyond 10 minutes.

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

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD are printed in today's RECORD under ''Morning Business.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, I would like to take a minute to explain or review where we are procedurally. The Senate has voted for cloture on the miscellaneous trade bill, including the Laos NTR issue. Under rule XXII, 30 hours of debate is available postcloture for further debate on the conference report.

I would like to ask how much time remains available for debate on the miscellaneous trade bill?

The PRESIDING OFFICER. There is 30 hours for all consideration, which includes the debate, quorum calls, and votes, which would end tomorrow at 4:44 in the afternoon.

Mr. FEINGOLD. Mr. President, how much time have we consumed of the 30 hours?

The PRESIDING OFFICER. Cloture was invoked this morning at 10:44, so we have consumed slightly less than 5 hours.

Mr. FEINGOLD. Mr. President, we apparently have a little over 25 hours remaining of the 30-hour period. I have with me a number of State Department and international reports from which I would at some point like to read. They describe further some of the horrific human rights abuses that have been perpetrated by the Lao Government. Senators COLEMAN, KOHL, DAYTON, and I have drafted a resolution condemning these abuses and urging the Lao Government to allow international access to vulnerable populations.

I don't want to shut this place down, but this is a very important issue, and it is my intention to remain on the floor and to prevent us from transacting any business unrelated to the conference report before us until we reach agreement to pass this important resolution. I realize I do not have the votes to block NTR from passing, but I cannot stand by and let that pass without insisting the Senate take strong action noting and condemning the Lao Government's actions.

I hope we can work things out quickly, and I think we can. I appreciate the support and hard work of my colleagues, particularly Senators KOHL and COLEMAN, who are working hard to get this resolution through.

At this point, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is considering a conference report under cloture.

Mr. DORGAN. I ask unanimous consent to speak in morning business for as much time as I may consume.

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

COUNTRY-OF-ORIGIN LABELING

Mr. DORGAN. Mr. President, as we near the end of the legislative session and its final day or 2 day, it is interesting what kicks around these Chambers: some people have ideas about adding things to the Omnibus appropriations bill. Other people want to take something out that they think is in that bill.

I came across a story in the newspaper this morning that describes something I discussed on the floor of the Senate yesterday. It says, ''GOP looks to repeal food label law.'' Then it quotes the House majority whip saying he expects the Senate to agree to repeal the country-of-origin labeling law now that its proponent, Senator TOM DASCHLE, is no longer in office.

First of all, Senator TOM DASCHLE remains in office until the end of his term.

Second, it is true that Senator DASCHLE is the strongest proponent and actually the architect and the author of the legislation that has created country-of-origin labeling. But I say to those in the GOP who look now to repeal the country-of-origin labeling law that they are in for a fight. Repeal is not going to happen just because somebody has a hiccup in the morning and decides they don't like this law. It is the law. We passed it.

The Secretary of Agriculture dragged her feet and didn't want to implement it. The omnibus conference legislation last fall actually delayed the implementation time for the law, and now they just want to kill it outright, apparently. Let me describe again what it is we are talking about. We are talking about labeling for meats and vegetables.

In the morning, when you put your T-shirt on, there is a label that tells you where that T-shirt was produced. Slip on a pair of shoes or slippers and you will find out where they were produced because they have a label. Go to the grocery store and pick up a can of peas off the shelf and take a look at its label and what is in this can, and you can see where it was produced. Most items that consumers are able to buy these days has a label that tells you where those things were produced. But that is not the case with meats and vegetables.

Country-of-origin labeling is something that is important for our farmers and ranchers because they produce the finest quality of food in the world for the lowest percent of consumers' disposable income. And it is also very important for consumers.

I held up a piece of beef on the floor of the Senate the other day. I said: I defy anyone to tell me where that piece of beef was produced. Where does it come from? Does it come from the processing plant in Mexico that was processing beef and shipping it to the dinner tables of American consumers?

By the way, that processing plant was only inspected once. And when it was inspected, the inspector found that carcasses were hanging in rooms that were not cooled, with feces on the carcasses. The meat was being walked on by the folks who were working in that plant, with bacteria all around. The most unclean conditions you can imagine were in that plant, and eventually it was shut down. But that meat was going to the American kitchen table. Meat was produced in that Mexican processing plant under the most unsanitary of conditions.

That plant was closed down, but it has reopened under a new name, a new ownership.

Does anybody know whether the slab of beef that I held up the other day came from that plant? You don't. It is because there is no labeling. No one has any idea where any of it comes from. That is why farmers and ranchers in this country support labeling. Fruits and vegetables ought to be labeled. Consumers deserve it.

Farmers and ranchers in this country produce the best quality food in the world, and we ought to have country-of-origin labeling for meats and vegetables. Who doesn't want it? The big economic interests don't want it.

When they start whistling, we have people around here who start dancing. The faster they whistle, the faster these folks dance.

Now, apparently, they say let us just dump this proposal that is now law, or let us rather repeal the country-of-origin labeling law.

I say, again, there are those of us who will wage an aggressive fight with those who want to decide to repeal that law.

Not only do we have people who want to stick legislation like this to repeal the country-of-origin labeling in the omnibus bill at the end of this session, which would be a huge step backwards and a real slap in the face not only of consumers but also of farmers and ranchers, but we also still have people blocking legislation that should be completed by this Congress. Let me describe specifically what that is.

We have been working in the Senate for a long while to allow the reimportation of prescription drugs. U.S. consumers pay the highest prices in the world for prescription drugs. Brand-name prescription drugs cost a great deal of money in our country. Miracle drugs offer no miracles to those who can't afford to buy them. I commend the drug companies for producing miracle medicines. But there is no excuse for charging the American consumer the highest prices in the world.

I will give you some examples.

If you are a woman and have breast cancer, God forbid and have to take the drug tamoxifen, I have had people tell me that they went to Canada and paid one-tenth of the price they were charged in the United States for that anti-cancer drug.

I spoke just recently, in fact, to a couple in North Dakota who have gone to Canada for 3 straight years to buy tamoxifen. They said they paid one-sixth of the price that was charged locally in this country.

As I indicated, I have heard people say they paid 10 times more in the United States for that drug than you would pay in Canada for that.

What about Lipitor for cholesterol? Lipitor is one of the top selling cholesterol-lowering drugs in the United States. I have two bottles in my office that I have used previously on the floor of the Senate. They look identical because they are made by the same company; the same pill put in the same bottle, sold by the same pharmaceutical company. One was sold in Winnepeg, Canada, and the other one in Grand Forks, ND—the same pill, the same tablet called Lipitor.

The only difference is the price. Buy it in the United States and you pay $1.86 per tablet. Buy it in Canada and you pay $1.01 per tablet.

Why is the price for that cholesterol-lowering drug almost double in the United States? It is because U.S. consumers are charged the highest prices in the world for most brand-name prescription drugs.

We have been trying very hard in the Congress to pass a bill that would allow the consumers to make the choice where to purchase those drugs. In fact, the legislation Senator SNOWE and I and others have introduced would allow American pharmacists to go to Canada and buy that lower priced prescription drug and bring it back to our country and pass the savings along to the consumers. But we have been blocked in this effort.

Many of us in the Senate put together a bipartisan bill, and that bipartisan legislation was authored by myself, Senator SNOWE, Senator KENNEDY, Senator MCCAIN, Senator DASCHLE, and many others. That bill did not get through the Senate because it was blocked.

I thought I had an agreement with the majority leader. He believed that he had reached a different agreement at about midnight one evening in exchange for releasing a hold on a key nominee. I believe I was told that we were going to be able to see action on that legislation. The majority leader feels differently. I regret that we have that disagreement.

But we come to the end of this session, and the fact is that the effort to help American consumers by putting downward pressure on prescription drug prices in this country has been scuttled. It has been blocked. The White House has blocked it. The FDA has blocked it. The majority in the Senate has blocked it.

In the Presidential debates, in fact, this issue came up. The President was asked, why are you blocking the reimporting of prescription drugs to put downward pressure on prescription drug prices? And the President said, ''I haven't yet''—meaning he hasn't blocked it yet. Of course he has, he has continually blocked it. The President went on to say during the debate:

> Just want to make sure they're safe. When a drug comes in from Canada, I want to make sure it cures you and doesn't kill you. Now it may well be here in December you'll hear me say, I think there's a safe way to do it. If they're safe, they're coming.

But the President meanwhile goes on blocking the reimportation of prescription drugs.

The bill we have written is a bipartisan bill. This is not Democrat versus Republican. It is a bipartisan piece of legislation.

Let me point out with respect to the safety issue, in testimony from an executive of a drug company, a vice president for marketing at Pfizer, Dr. Peter Rost:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation of drugs has been in place for 20 years. It is called parallel trading.

In Germany, if you want to buy a prescription drug from Spain because it is cheaper, you can. If you are in France and you want to buy it from Italy, you can do it. It is called parallel trading. The Europeans have done it for 20 years routinely and there is no safety issue.

Our legislation would give American consumers and pharmacists the ability to access FDA-approved drugs that are produced in FDA-approved plants. This approach allows the marketplace to put downward pressure on prescription drug prices here by being able to buy the identical prescription drug, FDA-approved, from Canada, or another country. As long as there is a chain of custody that is safe—and no one argues that the Canadian chain of custody for prescription drugs is not safe—there is no reason why we should not allow the marketplace to work for the benefit of consumers.

We end this legislative session with this proposal having been blocked.

It is estimated that if Americans could pay the same price as the Canadians for prescription drugs, the consumers of this country would save $38 billion. This is not a small issue. This is a big issue. The fastest rising portion of health care costs is prescription drugs, and we are trying desperately to do something about it.

I don't denigrate the pharmaceutical industry. They are a big industry, strong and tough. They fight hard to protect what they have. I don't denigrate that. But there needs to be some competition in order to put downward pressure on prices. It is unsound public policy for our country to decide to allow the pharmaceutical industry to charge the American consumer the highest prices in the world. It is especially tough for senior citizens. Senior citizens are about 12 percent of the population of this country and they consume one-third of the prescription drugs in America. They have reached that point in their life where they are receiving a lower income and having to shell out substantially more for prescription drugs. Many of them simply say, we cannot afford it.

That is why Republicans and Democrats, together in a bipartisan effort, have tried very hard this year to get this reimportation legislation through the Senate. I regret we come to the final day or days and it remains blocked.

My hope is that those who I felt had reached an agreement with us to give us an opportunity to have a vote on this legislation will understand we will be back the minute the Congress returns, in a new Congress, ready to fight this battle again. This battle is not over. We are not quitting. On behalf of the consumers of this country, they deserve fair treatment with respect to the prices of prescription drugs.

It appears to me we are one or two days from completing this legislative session. I will have great regrets—I believe I speak for my colleagues Senator MCCAIN, Senator SNOWE on the Republican side, Senator DASCHLE, Senator KENNEDY, Senator STABENOW and Senator FEINGOLD on the Democratic side—that we have gotten to this point and have been blocked each and every step of the way.

Then we have the President say, I haven't blocked it. Of course, he has blocked it. The FDA, the White House, and the majority in the Senate have blocked our bipartisan bill, an opportunity to try to do something to put downward pressure on prescription drug prices. That, in my judgment, is a

failure of this Congress, and it is a failure I hope we will soon remedy when we turn the calendar over to January and begin a new Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I ask unanimous consent that following my remarks, the senior Senator from Minnesota, Senator DAYTON, be recognized.

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

MEDICAL RESEARCH

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly about medical research in the United States. The Senate is now working through, as we all know, an Omnibus appropriation bill, which includes the appropriations bill for the subcommittee which I chair on the Department of Labor, Health and Human Services, and Education. One of the component parts of this bill involves the funding for the National Institutes of Health. Our allocation is grossly insufficient. It impacts on many areas. It impacts on education. It impacts on worker training. It impacts on many aspects of the delivery of health services.

One line which I think is particularly troublesome is the absence of adequate funding for the National Institutes of Health. I say that because of the very remarkable advances which NIH has made in the past, and the enormous potential for the future.

I was elected to the Senate in 1980. In the first year I served on the subcommittee, which I have for the full 24 years of service, the NIH funding was something less than $3.6 billion. By this current fiscal year, funding had increased to some $28 billion, significantly as a result of the leadership of Senator TOM HARKIN, who is the senior Democrat on the subcommittee, and my pressure to increase the funding, backed up by the full committee and by the full subcommittee, Senator STEVENS, Senator BYRD, and then approved most of the time by the full body. This year, our funding is very insufficient.

If we look at where medical research has brought us, it is remarkable. Life expectancy has increased from 47 years in the year 1900 to 77 years in the year 2001. Polio, smallpox, and other infectious diseases no longer kill or cause suffering to large numbers of people. The rate of death due to heart disease has been cut by more than half since 1950. Death rates from cancer for 11 of the top 15 cancers in men have decreased; 8 of the top 15 cancers in women have been decreased. Diagnoses with multiple myelomas have been reduced from a death sentence to living with a chronic condition as a result of new drugs developed through biomedical research.

But there is still an enormous challenge. Heart disease continues to be the number one killer; cancer, the number 2 killer, not far behind. The tragic aspect of these deadly diseases is that they could all be cured, I do believe, if we had sufficient funding.

Two of my closest friends have died recently as a result of breast cancer. Being the chairman of this subcommittee for many years has brought me into contact with many people who have maladies, whose children have maladies, who suffer from Parkinson's, whose family suffers from Alzheimer's, and varying categories of cancer.

My Chief of Staff, a young woman named Carey Lackman Slease—well known in the Senate community—died on July 14 of this year at the tender age of 48. She was known by practically everybody in the Senate. She came to the Senate to work for Senator Heinz 24 years ago when she was 24. She left the Senate for a time for a variety of private enterprises, but her heart and soul belonged to the Senate, and she came back as my Chief of Staff and did a spectacular job.

The breast cancer disease lingered in her body, and notwithstanding the pain, suffering, and torture she went through; she stayed at the job. And she stayed at her desk, insisting on staying, although many of us tried, including me personally, to have her ease off. She was in love with the Senate and found the Senate work the best therapy, so that when she passed, it was a shock to people who had been working with her in very recent periods of time before. All of us took her death very hard, especially in the context of our thinking that her death could have been avoided had medical research had sufficient funds and sufficient resources to do the job.

A few days ago, on November 11, a very close personal friend, Paula Kline, who was the wife of my son's law partner, who I was very close to, who was practically a daughter, died at the age of 54 of breast cancer. In a very valiant and very courageous way, Paula Kline struggled with all of the advanced protocols and possibilities which might have spared her or elongated her life. And going through the various forms of treatment, they turned out to be worse than the cancers themselves. But again, the tragedy is that Paula Kline's death could have been avoided had sufficient resources been devoted by this very wealthy country to medical research. We have a gross national product in excess of $11 trillion. We have a Federal budget of $2.4 trillion this year, and it will be more next year. And when we take a look at the budget for the National Institutes of Health at $28 billion, it is, candidly, scandalous that with our resources, our resource capability, research capability in biomedical science, that people are still dying of breast cancer or colon cancer or heart disease.

There is a long list of maladies that people suffer from where there could be cures: autism, Parkinson's, scleroderma, muscular dystrophy, osteoporosis, cervical cancer, lymphoma, prostate cancer, colon cancer, brain cancer, pediatric renal disorders, glaucoma, sickle cell anemia, spinal cord injury, arthritis, a variety of mental health disorders, hepatitis, deafness, stroke, Alzheimer's, spinal muscular atrophy, amyotrophic lateral sclerosis—commonly known as Lou Gehrig's Disease—diabetes, breast cancer, ovarian cancer, multiple myeloma, pancreatic cancer, head and neck cancer, lung cancer, multiple sclerosis, macular degeneration, heart disease, infant sudden death syndrome, schizophrenia, polycystic kidney disease, Cooley's anemia, stroke, primary immune deficiency disorders.

That list was compiled by Bettilou Taylor, who is the most—I was about to say the most extraordinary staffer; we have a lot of extraordinary staffers in the Senate family—but a most devoted worker. I will take just a moment to commend her and the staff on the Appropriations Subcommittee of Labor, Health and Human Services, and Education. They have been working around the clock, home for an early morning shower, and back at work, turning out an omnibus bill for some eight of the subcommittees which had not been able to turn out bills before.

It continues to be mystifying to me, after being here for 24 years, that we cannot complete our work in a more orderly way. It is a regrettable fact of life, but it is a fact of life that everything is done in the Congress at 11:59 if there is a 12 o'clock curfew. Some of it does not get done until after midnight, until after the curfew. We have worked the bill every which way. A couple years ago, we had the bill concluded on June 29, floor action by the Senate. But by the time we get through the complex conferencing—and I do not ascribe any fault anywhere, to the other body or to this body—it seems to be endemic of the way we do our business.

But we are about to have a bill filed. There have been various predictions. The most recent one is for 5 o'clock. We will see if that happens. There are so many items that our constituents come to us for, and they want included in the bill. It is such a complex and difficult matter. We struggle with it. And the House will take it up some time tonight. I do not know how anybody can intelligently or intelligibly read that bill, let alone to comprehend it, through the limited period of time which is available.

In struggling through the bill this year, for my subcommittee, there are many disappointments, but the biggest one is on the National Institutes of Health. I focus particularly on the tragic death of my Chief of Staff, Carey Lackman Slease, who died July 14 at the age of 48, and a very close personal friend, Mrs. Paula Kline, who died on November 11, just a few days ago, at the age of 54. The deaths are marked by the tragedy of the fact they could have been eliminated had we devoted sufficient resources to medical research.

I call this to the attention of my colleagues in the Congress and the people who may be watching on C–SPAN or

who may read the CONGRESSIONAL RECORD of the importance of renewing our efforts, in a wealthy country with a gross national product of $11 trillion and a Federal budget of $2.4 trillion, that we could do better than $28 billion for this very important subject.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that the pending matters be set aside and I be allowed to speak 10 minutes on another matter, and that the 10 minutes count against my hour under the cloture rules.

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

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. DAYTON. Mr. President, on another matter, I am rising to support the conference report that is being proposed for the Individuals with Disabilities Education Act. I support this legislation. I commend the conferees for their efforts to streamline, make less bureaucratic and less time-consuming, the current IDEA legislation and its administration.

In Minnesota, my home State, special education teachers—in fact, some of our most experienced special education teachers—are leaving that field, leaving special education classrooms, because of the bureaucratic burdens, the time-consuming paperwork.

They lament the time they cannot spend in those classrooms, the time lost to working directly with schoolchildren, in order to have to comply with all of the State, Federal, and local school district reporting requirements.

Those reporting requirements are mostly well intended, and one layer of them is mostly necessary and appropriate. However, the second and the third layers of bureaucracy have become duplicative, redundant, excessive, and oppressive.

Sadly, previous attempts to ''reform'' this bureaucratic overload have resulted, according to many of the teachers in Minnesota, in more, not less, reporting requirements, more forms, more time required away from their classrooms and from their students. No one benefits from that bureaucratic overload—not the special education students, their families, the teachers, or the taxpayers.

Like too many other well-intended programs, we try to micromanage the process, rather than analyze the results. We tell educators, or other experts in their fields, how they ought to do their jobs, rather than telling them to do their jobs as efficiently and effectively as possible, and then report to us and to our constituents their progress—in this case, improving the educational attainments and ability of their students, and what they need from us to do their jobs even more effectively.

When IDEA was enacted back in 1975, there was opposition to it from some States and school districts and from some schools. But now, in my State, schools and teachers are committed to doing special education as well as possible. We need to get out of the way and let them do it. So I hope this legislation will be a step in that direction—better yet, two or three steps in that direction.

Something else we should do, though—and we should have done it long ago, and certainly have done it during the last 4 years I have been here—is fully fund the Federal commitment to IDEA, to fulfill a promise Congress made 29 years ago—29 years ago, when it passed the special education mandate. Congress back then promised the States, promised local school districts and, most important, promised the children and parents of America that they would pay for 40 percent of the cost of special education. When I arrived here 4 years ago, that percentage was only 13 percent, less than one-third of the amount promised 25 years before. To his credit, President Bush has proposed in each fiscal year an increase in the amount of Federal funding for special education. To our credit, we have passed those increases, and even somewhat more, so that this year the Federal funding for special education totals 19 percent of total spending nationwide, which is an improvement, but is still less than half of what was promised 29 years ago.

That broken promise by the Federal Government cost my State of Minnesota nearly $200 million this year. It has cost every other State special education funding. I am, frankly, mystified at why my five pieces of legislation—five times I have attempted to increase the Federal share of special education to that promised 40-percent level—have been defeated every time in the Senate. I am mystified—because I cannot believe that most other States and most school districts in America could not use that additional special education funding. In schools in Minnesota, the underfunding of the Federal share of special education results in local school districts having to make up those shortfalls either out of funding for other school programs for students, or by increasing local property taxes, because states and schools are being mandated by us to provide special education services. They are subject to lawsuits if they don't. But we are not providing them with the money to carry out that mandate.

This bill before us would not fully fund the Federal share for special education until the year 2011. Even then, that funding level is not assured. It may not be enough. It is not guaranteed. It is not made a requirement. The appropriations still have to come each year.

So we have, once again, evidence that we lack the proper priorities. We propose and pass tax cuts for the wealthiest Americans, and the President proposes to make them permanent. Some colleagues propose eliminating the estate tax, which affects 2 percent of the people in America, by 2010, and to make that permanent starting in 2011. While some call that the death tax, special education is a life commitment, a lifesaving commitment. Yet, we will not make that lifesaving commitment to the schoolchildren of America.

I will try again next year, and I will keep on trying with my legislation to fully fund the Federal share of special education, which should be well within our reach financially. It is the right thing to do, and it is the necessary and moral thing to do, and it would serve well the interests of this Nation in the years ahead. I regret that it is not part of this conference report coming before us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senate is under cloture on the conference report to H.R. 1047.

Mr. LEAHY. I thank the Chair.

TRIBUTES TO RETIRING SENATORS

TOM DASCHLE

Mr. LEAHY. Mr. President, when the Senate concludes its business in the coming days, the congressional career of a remarkable man will come to an end. After 26 years of representing South Dakotans as their voice in Washington, Senator DASCHLE will be leaving the Senate.

His story is a classic one. As a young man from Aberdeen, SD, TOM DASCHLE graduated from South Dakota State University and immediately began 3 years of service in the Air Force of the United States. After his service, he got an early introduction to Washington as he went to work for Senator Abourezk, eventually returning to South Dakota to work out of the Senator's state offices.

TOM was elected to Congress in 1978 and went on to serve four terms in the House of Representatives before being elected in 1986 to the Senate.

After the resignation of George Mitchell in 1994, Senator DASCHLE won a very tight race for minority leader. I was proud to have supported him at that time. 1994 was a difficult year for our party and we had some serious soul searching to do. TOM displayed the strong leadership that was necessary to take Democrats in the Senate forward. That is why, after that first tight election for leader, he was reelected unanimously as leader each time thereafter. He has always been a man who radiates optimism and hope, making him an excellent face for our party.

I have known TOM since he first came to this body in 1986. I closely followed his Senate race against James Abdnor, and I was impressed by him. A few days after TOM won that race, he and his wife Linda joined my family in Vermont for Thanksgiving dinner. When they came to the farm, my mother said to me, ''That is the nicest

young man I ever met.'' Well, she was right. TOM is a man of deep resolve and strong character.

The Nation saw that character exhibited in the days following September 11. Senator DASCHLE showed the country the importance of setting labels aside when he publicly embraced President Bush. In the face of that terrible tragedy, America united behind our leadership.

Only a few short weeks later, Senator DASCHLE and I were both targets of anthrax attacks—some of which killed several people—in letters addressed to the two of us. I know that the attacks brought home the reality of terrorism to both of us, but also to the Senate community as a whole.

In the ensuing years, Senator DASCHLE continued to show resolute leadership in the Senate, routinely reaching across the aisle even when those on the other side of the aisle were at their most partisan.

On more than a few occasions, Senator DASCHLE and I have joined together to work on a variety of national legislative efforts. Together, we advocated for expanded benefits for members of the National Guard and Reserve. Senator DASCHLE has shown courage and resolve in holding the line against the President's most objectionable judicial nominations. We worked together on tort reform, combating corporate crime, and efforts to help off-duty police protect Americans. Those are just a few of the initiatives on which we collaborated.

But during that time, he has also been a strong voice for South Dakota on those issues important to his constituents. He has fought for improved health and education for Indians. He has led efforts to expand health services in rural areas and to prevent companies from canceling retiree benefits without notice. He is well known as a champion for ranchers and farmers in South Dakota. In fact, he made sure their voices were always heard. He worked to ensure they had drought aid, but also he worked to do what a true South Dakotan would do: He wanted to make sure they could compete on a level playing field.

Despite a well-run campaign and putting forth his best effort, Senator DASCHLE was not reelected to the Senate this fall. The morning after election day, he gave a speech before his supporters in Sioux Falls. He finished that speech by recalling two memories. The first was of a magnificent Washington skyline sunset he witnessed one fall afternoon leaving his office in the Capitol. The second was watching the Sun rise at Mount Rushmore with his family, and the warm, sweet optimistic feeling inspired by that sunrise. TOM said that, seeing both, he likes sunrises better. I agree. For the past 18 years with each daily sunrise, he sought to bring hope and optimism to this body. He has worked to better his State and his country, to ensure our children and grandchildren have a brighter world in which to live. He is a remarkable friend and colleague, and I thank him for his service to this institution.

If I can be very personal, in my 30 years in the Senate, I have not known a more honest and more decent Senator than TOM DASCHLE. I believe that part of our Senate fabric and our Senate conscience leaves with this special person.

Mr. President, I see others seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in a few minutes Senator COLEMAN will offer a resolution. I join Senators COLEMAN, KOHL, and DAYTON in supporting this resolution. By taking this up and passing it at this time, we signal that congressional concern about the deplorable human rights situation in Laos will be intense and ongoing.

As I have discussed today, I hear regular reports from constituents distraught about the conditions faced by their relatives in Laos. This is especially wrenching—and this is the point we have been trying to make all day—when we remember that the Hmong communities reportedly targeted for abuse are the same communities that worked side by side with U.S. forces during the Vietnam war. We simply cannot ignore the dismal human rights situation in Laos and be the country and the people we wish to be.

Just a word on the language of the resolution which Senator COLEMAN will describe in a moment. This resolution expresses the Senate's hope—hope—that a more open society will develop in Laos in the wake of the extension of NTR. Certainly this is my hope, although I, frankly, really see no reason to believe it will happen.

But the reality is that Laos will get NTR. The votes are there, and while I may disagree with the wisdom of colleagues taking that step, we, of course, all do hope for change in Laos—a greater respect for basic human rights, an end to repression aimed at ethnic minorities, such as the Hmong, and religious minorities, such as the Christian community, and for access to vulnerable populations.

I appreciate the efforts of my colleagues who join me in sponsoring this resolution and the efforts of the leadership on both sides, the Senate Foreign Relations Committee, and the Finance Committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, first, I thank Senator FEINGOLD for his leadership on this issue, for his perseverance, persistence and being on the floor, as we discuss the miscellaneous tariff provisions, to make sure that, before we finish our work, we put forth a resolution reflecting the sense of this body that there are problems with human rights in Laos. They have to be recognized. That is what this resolution does.

I thank Senator FEINGOLD. I thank my colleague, Senator DAYTON, who has been working with us, and Senator KOHL.

Mr. President, I ask unanimous consent that following the adoption of the resolution relating to Laotian human rights, which I will send to the desk in a moment, that the pending conference report to accompany H.R. 1047 be agreed to and the motion to reconsider be laid upon the table.

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

CONDEMNING HUMAN RIGHTS ABUSES IN LAOS

Mr. COLEMAN. Mr. President, I now ask unanimous consent that the Senate proceed to the resolution, which is at the desk.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 475) to condemn human rights abuses in Laos.

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

Mr. COLEMAN. Mr. President, I ask unanimous consent that the resolution be agreed to, that the preamble be agreed to, that the motions to reconsider be laid upon the table, and that any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 475) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 475

Whereas the Lao People's Democratic Republic is an authoritarian, Communist, one-party state;

Whereas the Government of Laos has a poor human rights record, particularly with regard to its treatment of minorities;

Whereas the United States Central Intelligence Agency trained and armed tens of thousands of Hmong guerrillas to disrupt Viet Cong supply lines and rescue downed pilots during the Vietnam war;

Whereas in 1975, the Kingdom of Laos was overthrown by the Communist Pathet Lao regime, and tens of thousands of Laotians, including the Hmong, were killed or died at the hands of Communist forces while attempting to flee the Lao Communist regime, and many others perished in reeducation and labor camps;

Whereas tens of thousands of Hmong became refugees, eventually resettling in the United States, where they now reside as American citizens and lead constructive lives as members of our communities;

Whereas remnants of former Hmong insurgent groups and their families who once fought with the United States and the Royal Lao Government still remain in remote areas of Laos, including Xaisomboun Special Zone and the Luang Prabang Province;

Whereas in August 2003 the United Nations Committee to Eliminate Racial Discrimination strongly criticized the Lao People's Democratic Republic for failing to honor its obligations, expressed its grave concerns regarding reports of human rights violations,

including brutalities inflicted on the Hmong, and deplored the measures taken by the Lao authorities to prevent any reporting of the situation of the Hmong;

Whereas in October 2003, Amnesty International issued a statement detailing its concern about the use of starvation by the Lao Government as a ''weapon of war against civilians'' in Laos and the deteriorating situation facing thousands of family members of ethnic minority groups;

Whereas the Department of State reported in its most recent Country Report on Human Rights Practices for Laos that the ''Government's human rights record remained poor,'' and highlighted press reports that one group of Hmong in Xaisomboun Special Zone, mostly women and children, was being systematically hunted down and attacked by government air and ground forces and that it was at the point of starvation;

Whereas international organizations, the Department of State, and Members of Congress have received reports of mistreatment over the past 6 months of Hmong in Laos emerging from remote areas of Laos, including the Xaisomboun Special Zone, the Luang Prabang-Xieng Khouang border area;

Whereas the Lao Government has not allowed independent organizations to monitor the treatment of the Hmong emerging from remote areas of Laos;

Whereas in September 2004, Amnesty International issued a statement condemning recent reports that Lao soldiers murdered 5 Hmong children, raping 4 girls, who were foraging for food close to their camp, and called it a war crime; and

Whereas the Lao People's Democratic Republic has failed to substantially improve the status of human rights for its citizens: Now therefore, be it

Resolved, That the Senate—

(1) Condemns the consistent pattern of serious human rights abuses in the Lao People's Democratic Republic;

(2) Urges the Government of Laos to increase international access to vulnerable populations and to respect the basic human rights of all Laotians, including ethnic and religious minorities; and

(3) Hopes that the Lao government intensifies its efforts to make its economy and society more open and transparent in light of the congressional grant of normal trade relations to the Lao People's Democratic Republic.

Mr. COLEMAN. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, this is an issue in which I, Senators FEINGOLD, COLEMAN, and many others have taken a deep interest. I believe this resolution is an important statement. It makes very clear, when the Senate passes the miscellaneous tariff bill with Laos NTR, that we still condemn the consistent pattern of serious human rights abuses, and we will continue to press forward for increased access for the Hmong and other ethnic minorities in remote areas of Laos.

I thank the Chair. I yield the floor.

Mr. DAYTON. Mr. President, I thank my colleagues Senator FEINGOLD and Senator COLEMAN for permitting me to have this time and also to commend them for their outstanding leadership regarding the violation of human rights in Laos. I join with them in opposing the granting of permanent trade relations for that country due to the oppression of Hmong and other violations of human rights in Laos. I strongly support, proudly, and am a cosponsor of their resolution to express the strong opposition of the Senate to those continuing violations.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004—CONFERENCE REPORT—Continued

Mr. BYRD. Mr. President, today I voted against invoking cloture and ending debate on the conference report accompanying the Miscellaneous Tariff Bill, H.R. 1047. Normally, this is a noncontroversial bill passed by unanimous consent. However, this year's bill is different. While it contains many provisions that I support and have worked with other Senators to someday enact, it also includes a specific provision to repeal the Antidumping Act of 1916. This bill would repeal the 1916 Act in response to an international ruling, which found that this U.S. trade law is WTO-violative even though no court ruling under this U.S. law has resulted in any need for the United States to compensate any of America's trading partners.

I disagree with repeal of the Antidumping Act of 1916, because I believe that this attempt by the WTO to force the United States to abolish this trade law, legitimately enacted at the start of the prior century, is misguided and unfair. Our trade foes have little reason to criticize this trade law; few cases have been brought under its provisions, and even fewer have resulted in judgements against any foreign firm. The WTO's attempt to abolish this law is simply one of a long line of decisions by this international body meant to open U.S. markets to cheap, unfairly traded imports, and to undermine the ability of the United States Congress to exercise its sovereign right to regulate domestic and foreign commerce.

Repealing this U.S. trade law would set a bad precedent and could only encourage other nations to seek similar, ill-informed ''justice'' at the WTO. That, in turn, will lead to disaster for the U.S. industrial base, where American producers will assuredly suffer the ill-effects of increased, dumped imports, which will drive down the prices of American-made goods and put more and more American manufacturers out of work.

The PRESIDING OFFICER. Under the previous order, the conference report is adopted and the motion to reconsider is laid upon the table.

The conference report was agreed to.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

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

FAREWELL

Mr. FITZGERALD. Mr. President, I rise with some sadness on my last time to speak on the Senate floor. It is a very bittersweet occasion for me because I have loved every minute of the last 6 years, and I will miss this body greatly. I am sure I will think about it every remaining day in my life hence forward. The past 6 years have been amongst the most thrilling in my life, and it has been a privilege and honor to serve here.

I rise really to thank my colleagues for their kindness to me over the years and to thank my staff and my family and the entire Senate staff and everyone who is part of this institution for the wonderful 6 years I have had here.

I was first elected to the Senate from Illinois in 1998. I was sworn in in 1999, and almost immediately thereafter, the first Presidential impeachment trial in 130 years began. For my first 35 days, I think it was, or 38 days, on the Senate floor, I was immersed in the impeachment trial of former President Clinton. Thereafter, we had times of war, war in Kosovo and Afghanistan and now Iraq. We had the events of 9/11. I have served in times of war and peace, in times of great prosperity, as well as in times of recession. I have seen a whole lot.

What I will remember most probably is the wonderful people who are part of the Senate. When I entered the Senate in 1999, I came in as the youngest Member. I was 38 at the time. I am older now, obviously, and have probably less hair and more gray hair. The oldest Member of the Senate at that time was Strom Thurmond. He was 96 years of age. I will never forget Strom Thurmond telling me, when he was 96, about how he used to work out 45 minutes every day, and I was thinking about whether I might be as active as Strom when I am 96, if I make it that long. Even at that age, I remember Strom giving me advice, telling me about how I could help the coal industry in southern Illinois. It was remarkable to meet someone like that.

There are many who have retired. There are others like Strom who have passed away. There are some giants who are still with us, such as Senator ROBERT BYRD. One of my first memories of meeting Senator BYRD is going in to talk to him after I first got elected and asking him to sign for me a copy of his book on the history of the Roman Republic. Early on in my term in the Senate, I actually read Senator BYRD's whole book on the history of the Roman Republic. I have to say it is a marvelous book, and any Member of the Senate who has not read that book should please go out and get it because it has bountiful lessons for every Member of the Senate. It traces the decline and fall of the Roman Republic. It traces the decline of the Republic to the Roman Senate giving up more and more of its powers to the Executive, finally to the point where the Senate became meaningless and Rome was just governed by Caesers, dictators, and kings. It is an outstanding book.

To meet the man who wrote this book and to realize that book was

taken from a series of speeches that he delivered on the Senate floor, without notes, as to the hundreds of thousands of names and dates in that book, is truly astonishing.

Senator BYRD has written a much larger four-volume history of the Senate, which when I retire from this body I hope to have time to tackle. But just to think of someone who could be so productive not only in the Senate for so long but accomplish so much in other areas writing such scholarly books, I will miss people like Senator BYRD and Senator Thurmond and all the others, the leaders with whom I have had the privilege to serve.

Senator TRENT LOTT was the majority leader when I entered. For a period of time, TOM DASCHLE was the majority leader. Now Senator FRIST is the majority leader, and soon Senator HARRY REID will be the minority leader. Each one of those individuals is remarkable, in my judgment. They have always been gentlemen of the highest order, and they work very hard. They are very good at what they do in representing their perspectives. They are good and honorable people whom our country is lucky to have.

Our whips on the Republican side, DON NICKLES and MITCH MCCONNELL, DON NICKLES has done such a good job for the taxpayers of this country. It has been an absolute pleasure to watch him fighting excessive spending and confiscatory taxation. I have been pleased to join him over and over again to hold the line on spending and to vote against tax increases and for tax relief, something that I view as very important.

I am retiring at the same time as Senator NICKLES. I will miss him greatly as part of this body, but I hope to see him often in life outside of the Senate.

Other colleagues of mine are so important to me for reasons one might not think of. I did not know what I might have in common with Senator BUNNING from Kentucky. He was elected at the same time I was in 1998. Senator BUNNING is always so kind in giving me advice, as I advise my own son how to practice his pitching for his Little League games.

The other night, I saw Senator BUNNING in his car, and I said: JIM, having been a Hall of Fame baseball pitcher—where else can you get that kind of advice for your son's pitching lessons—I am not going to be able to ask you for advice on how to coach my son on pitching.

He said: You know what. You can still call me afterwards. I will always be there.

It is comments like that and the friendships like that, where I have spent so much time with the other 99 Members of this body, so many late nights and long weekends and sometimes retreats together, all of us really have become almost kind of like a family. It is much more family like than I think the media in America recognizes because so often the differences between the parties or the personalities get emphasized by the media. But I will miss them all.

JOHN MCCAIN, the chairman of the Senate Commerce Committee on which I have been privileged to serve the last 4 of my 6 years, a man I admire greatly. Most Americans know about his heroism as a prisoner of war during the Vietnam War, where he was in the Hanoi Hilton for 5 years and the enemy forces tortured him, crushed his bones and could never get him to buckle or back down. Few men have the kind of courage that JOHN MCCAIN has. It is not just physical courage but the courage he has had to always fight for what he believes is right. Sometimes I have not agreed with him, but when he believes he is right he is willing to stand up to some very powerful forces that often threaten him politically, but nothing scares this American hero, JOHN MCCAIN. I am so thankful to him for the opportunity he gave me to chair the Consumer Affairs Subcommittee on the Senate Commerce Committee where I have been able to work on child safety and booster seat safety and automobiles and also to play a very critical role in the corporate governance hearings that we had a few years back first with Enron, Adelphia, WorldCom and those other corporate scandals.

We have also worked on aviation and transportation, the Internet, telecommunications. There is never a dull moment with Senator MCCAIN chairing the committee, and for the seven new Senators who are coming in who are thinking of what committees they might want to serve on, that is one I have always loved. With Senator MCCAIN, there is never a dull moment.

SUSAN COLLINS, the chairman of the Senate Governmental Affairs Committee—what a great American, what a hard-working American. We all saw that recently with her hard work on putting together the Intelligence bill under very difficult circumstances with a very short time to work. I thank her for giving me the opportunity to chair the Financial Management, the Budget, and International Security Subcommittee of the Governmental Affairs Committee, together with my friend and colleague DANNY AKAKA, from Hawaii, who has been my ranking member on that subcommittee. DANNY is such a gentleman. I tell you, I am going to miss him personally, and I am also going to miss the macadamia nuts that he regularly sent over to me. But I may have time to visit him on a beach in Hawaii, now that I think about it. Maybe that is where I will see him and Senator INOUYE next.

But Senator AKAKA and I were able to wake up what might normally be thought of as a very sleepy subcommittee of the Governmental Affairs Committee, where we dealt with improving accountability of Government financial reporting. We increased audit requirements on Federal agencies, we extended the Chief Financial Officers Act to the Homeland Security Department, and we put it in to apply to the new Intelligence Directorate. But, also, we have worked very hard in that subcommittee to spotlight some of the great challenges our country confronts.

I think in that regard, with the staff on that committee on both sides of the aisle being so able, we have been able to put together some of the best hearings the Senate has had on issues such as our defined benefit pension problem in this country. The Pension Benefit Guaranty Corporation has a massive deficit with no end to increasing deficits on the horizon.

We have had hearings on the Government-sponsored entities such as Fannie Mae and Freddie Mac and the Homeowner Bank Boards and other entities that are privately owned but have Government charters, and what risk they may or may not pose to the system.

We had a series of hearings on huge funds and the problem of high fees. Mr. President, I was honored to have your cosponsorship on a landmark bill to reform the mutual fund industry. While we were not successful in passing that legislation this year, the Securities and Exchange Commission has adopted many of the items in that bill, including requiring independent chairmen of the boards of mutual funds in America.

Just this week we did a hearing on the problems that we have seen in the insurance brokerage industry in which we heard from experts on all sides and got Washington's first perspective on the indictments that have come out of Attorney General Eliot Spitzer's office in New York. We had a hearing on the issue of the expensing for stock option compensation, which has been so actively debated amongst accountants in our country.

Finally, the Accounting Financial Standards Board is going to require publicly traded corporations to expense stock option compensation on their earnings statements.

On the Agriculture Committee, if I think of the word ''gentleman,'' I would think of Senator LUGAR, who was the chairman of the Agriculture Committee when I first came in, and Senator COCHRAN, from Mississippi, who is the current chairman of the Agriculture Committee. It is regretful I will not be here a second term because I now have enough seniority on the Agriculture Committee to chair it in the second term, believe it or not.

But Senators LUGAR and COCHRAN have been a pleasure to work with. We passed a number of measures to make life better for our Nation's farmers, some very simple but important allowing farmers to file all their USDA paperwork on the Internet.

We improved child nutrition and passed legislation to make it easier for people who depend on Government assistance for their nutrition and food needs, that those people through the Food Stamp Program can now get their benefits across State lines—somebody

who may live in St. Louis and goes back and forth to Illinois, or somebody living in northwest Indiana and goes back and forth to Chicago.

Also, a very important industry in my State, Mr. President, and in your State as well, is the commodity futures industry. In Chicago, we have the Board of Trade and the Chicago Merchantile Exchange. We also have the Chicago Board Options Exchange. I am told, directly and indirectly, in Chicago we employ some 200,000 people in the futures industry.

The Agriculture Committee has given me the opportunity to work on the rewrite of our commodity trading laws. I was pleased to be an active participant in the Commodity Futures Modernization Act, where we first allowed the trading of futures on individual stocks in this country. That market is now developing. I hope to see it come back.

I want to say some words of thanks to the senior Senator from Illinois, Mr. DICK DURBIN. He referred to us as the political odd couple—one conservative Republican, one liberal Democrat, from the land of Lincoln.

More often than not, we probably disagreed from a policy perspective on some of the key issues confronting our Nation, but it never prevented us from working well together. In fact, we jointly held 163 breakfasts, constituent breakfasts together. Every Thursday morning at 8:30 when the Senate was in session, Senator DURBIN and I would host a breakfast, allow constituents who were visiting Washington from Illinois to ask us any question that was on their mind, whether it was political or policy related, and we paid for the breakfast. My understanding is, there are not many other examples of bipartisan breakfasts where you have one Republican and one Democrat who have such a weekly gathering for their constituents.

We worked well together on the selection of judges. We almost never had an open vacancy that we couldn't resolve on the district courts in the northern, central, or southern Illinois districts.

Senator DURBIN was terrific in supporting me in my effort to clean up corruption in Illinois. One of the most important things I did in that regard was to bring in independent U.S. attorneys to the State of Illinois who were not beholden to the political class in the State. That was something new. When I went to appoint U.S. attorneys, I found everybody and their brother, particularly all the local politicians on both sides of the aisle, trying to influence the selection of my U.S. attorney.

I didn't want to lay awake at night wondering who was trying to influence my U.S. attorney, either to go after someone unjustly or to protect someone wrongly from prosecution. I, ultimately, decided for that reason to do a nationwide search for our U.S. attorneys, which yielded, I think, amongst the best U.S. attorneys anywhere in the country: Patrick Fitzgerald in the Northern District of Illinois, Jan Paul Miller in the Central District of Illinois, and Ron Tempas, in the Southern District of Illinois. They are doing a tremendous job and no one is asking whether they are influenced politically or what their motivation would be. I thank Senator DURBIN for supporting that effort to bring independent U.S. attorneys to Illinois.

Senator DURBIN is a man whose stamina, hard work, and intelligence I greatly admire. He is very devoted and hard working. He travels back to his hometown of Springfield every weekend. That is a harder commute than my commute. I travel back to Palatine, IL, which is only about 12 miles northwest of O'Hare. So I had a fairly easy commute; I just had an hour and a half plane flight and then a short drive and I was at my house. But Senator DURBIN would go back to O'Hare every weekend and then catch another flight down to Springfield and he does that every weekend. He is constantly back in the State of Illinois.

I think we worked well on just about everything, except aviation. We had a disagreement over O'Hare Airport. I think I am right. He thinks he is right. But aside from that difference of opinion, it has been a pleasure to work with him.

I am sure Senator DURBIN will be an effective spokesman for his side of the aisle as the whip for the incoming Democratic caucus in the 109th Congress. I do not necessarily wish Senator DURBIN success in that role, but I do wish him well.

Barack Obama, my successor, I wish him well. It was a privilege to have lunch with him yesterday in the Senate dining room. I served with Barack Obama in the State senate for 2 years. He was coming in, in the legislature in Springfield, in my last 2 years of service there. He is an uncommonly bright and talented young man. He is 1 year younger than I. He is the first African-American president of the Harvard Law School. He is almost unequaled in his potential and promise. I am confident he will be a credit to the State of Illinois. I think he may surprise the political pundits by voting, crossing party lines at times that you don't expect him to. It may be a challenge for him with Senator DURBIN as his whip. But I see Barack Obama as possibly being a fairly moderate voice, more moderate than many people suspect.

To my staff, many of whom are gathered in the Senate Chamber, I could not have been blessed with a more wonderful staff to have gotten me through the last 6 years. I first need to start by thanking former Senator Bob Dole and the current Senator ELIZABETH DOLE for recommending to me the man who is my chief of staff, Gregory Gross. Greg worked for Senator Bob Dole when he was the leader in the Senate and during his Presidential campaign in 1996. He worked for Mrs. DOLE when she was at the American Red Cross. He is extremely bright, as Bob Dole told me when I first called for a reference on Greg Gross.

Bob Dole said to me: Greg is what you call a genius. And I thought, that is the kind of person I want, a genius on my staff. But he is more than just a brilliant and talented and knowledgeable chief of staff.

He is also incredibly devoted and incredibly loyal, and I thank him for that.

For the first 3 years, my chief of staff was Richard Hertling. He is now at the Justice Department. Richard did an outstanding job in getting us up and running. It is very hard when a new Senator is coming in and assembling a new staff, as some of the new Senators are finding out.

I have been blessed to have had an outstanding legislative director, Terry Van Doren from Macoupin County, IL, whose father owns a cattle operation in Macoupin County. Terry started out doing agriculture policy for me. Terry was just what the doctor ordered. He had straight A's from the University of Illinois in agriculture sciences. Then he got a master's in agriculture policy from Colorado State University. He had a 4.0 there. I was called by the dean of the University of Illinois Agriculture School. He told me what an outstanding young man Terry is. Terry has been instrumental in agricultural policy. He has been my legislative director.

Before him, Joe Watson was my legislative director, a brilliant young Harvard Law School graduate whom I pocketed out of the Sutter and Hopkins law firm. He is now at the Commerce Department serving under Secretary Evans.

My office manager, Sherri Hupart, has done such an outstanding job; always pleasant and kind and willing to help, and calm under pressure.

Her predecessor, Tina Tyrer, came to me from Senator Fred Thompson's office. She had some 20 years of experience in Washington running Senate offices.

My Chicago chief of staff, Maggie Hickey, is a one-woman army, entirely devoted, very hard working. I want to thank her.

My staff director for my Financial Management and Budget and International Security Subcommittee, Mike Russell, and the team he has put together, which I think enabled us to do the best hearings on some of the key issues confronting our financial markets in this country, I can't thank them enough.

I thank my schedulers and executive assistants, Lanae Denney, Julie Cate, Julie Crisolano, and Doris Gummino. Scheduler has to be the toughest job on Capitol Hill because you know how busy Senators' schedules get and how it is for them to hear when a Senator is tired, or frustrated, or thinks he is overscheduled. Senators hear about it. There is no question about that. I thank my schedulers for being there,

staying here working late into the evening. They have to be here even when the rest of the staff has gone home.

My campaign manager and first communications director, Mike Cys, is now in the private sector. He is brilliant and energetic and enthusiastic. I thank him for all his support.

I thank my communications, legislative assistants, legislative correspondents, receptionists, front office and back office, duty entry personnel, the interns, the kids we have had serve over the years.

My staff handled 6,000 to 10,000 letters a week for the past 6 years. The first year we came in, we were getting some 22,000 e-mails a day on the impeachment. My State office has handled over 22,000 individual constituent cases. They conducted traveling office hours all over the State, 1,574 traveling office hours in 675 towns. My State staff met individually with 831 mayors and village clerks telling them how to apply for Federal grants for sewer and water.

I thank the staff on the floor of the Senate: Dave Schiappa, the floor staff; Myron Fleming, the chief doorkeeper, the cloakroom staff, the Parliamentarians, leadership and Sergeant at Arms staff, and the pages who come and go every semester. I always look at them. They have to get up at 5 in the morning to do school work before they can come here. But they work so hard. I hope their experience has been as wonderful as we want it to be for them.

And, finally, I would be remiss if I didn't thank the most important people in my life, my family, my mother and father, who always supported me through my 12 years in public service, but through all the years of my life. It was always clear they would have been there to lay their lives down for their son.

Mr. DURBIN. Mr. President, if the Senator will yield, I would like to thank him for his kind words and wish him very well. We have served together for 6 years. Every Thursday morning when we were in session we had free coffee and doughnuts, a tradition that was started by Senator Paul Simon. I believe we were the only two Senators, being Democrat and Republican Senators, offering this opportunity for the visitors who come to Washington to ask a few questions and take a few photographs. But it worked very well. It became a very interesting experience for Illinoisans and others coming to Washington. We did it many times. It reached the point where I would give his answers to the questions and he would give my answers to the questions. We distinguished ourselves as being the only two Senators offering free coffee and doughnuts, which may account for the crowds that showed. But we did that for 6 years. We have worked closely together and effectively and successfully together on the appointment of judges, U.S. attorneys, and many projects that were local to Illinois. We disagreed on some issues but managed to maintain our friendship and warm relationship throughout.

Senator FITZGERALD announced his retirement for the right reasons. He said he wanted to spend more time with his family. That is something which we all admire very much.

I have enjoyed serving with Senator FITZGERALD, and I wish him the very best, whatever the next venture might be, and I hope we will continue to work together.

Mr. FITZGERALD. Mr. President, I thank Senator DURBIN for the kind words. I hope to come back to his breakfasts and get some of those free doughnuts myself. I might not have to pay for them. But I will miss it.

I thank Senator DURBIN.

Finally, I thank my brothers and sisters, Gerry, my older brother, Jim, Tom, my sister Julie. A lot of people in public office worry that their siblings might embarrass them. I have never had to worry because they are wonderful, upstanding people, all of whom I think are probably worried about what I might do that they might worry about. They are wonderful people.

I thank my wife Nina. We met together in D.C. when we were interns back when we were 19 years old, and after college and law school we got married. I moved her, plucked her from her home State of Colorado. She came to Illinois. I want to thank her for her steadfast support through all my years in public office.

Finally, last but not least, I thank my 12-year-old son Jake. Jake missed his father at baseball and basketball games. I have been in public office for his entire 12 years. I am going to make it up to Jake now. I am pleased that he is doing so well as a baseball pitcher. I thank JIM BUNNING and others for their advice.

And finally, the people of Illinois from one end of the State to the other, to the south, from Rockport to Freeport in the north, thank you for your kindness to me. I have loved every minute of it. You gave me your trust, and I worked hard every day to keep it safe.

Thank you all. God bless. I will miss you all.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, like the distinguished Senator from Illinois, I take a couple of minutes this afternoon to come to the floor to express in the most heartfelt way, as he just has, my profound thanks for the opportunity I have had to serve in the Senate.

I congratulate him on his successful career and wish him well in all of his endeavors.

I would like to begin where he ended—by thanking my family: my wife Linda, my mother, my daughter Kelly, Eric, our son Nathan, and Jill, and our daughter Lindsey.

I thank my staff. I actually believe—and I am sure each of our colleagues shares this view—that I have the finest staff the Senate has ever assembled. They have served me, they have served this institution, they have served the people of my State, and they have served this country with remarkable professionalism, dedication, loyalty, patriotism, and commitment in ways that nobody could possibly register.

I thank the people of South Dakota, most importantly, for the opportunities they have given me to live my passion for these past 26 years. No Senator has ever been more grateful, more fortunate than I.

I thank my colleagues for their friendship and their loyalty, their support, and the remarkable strength they have given me each and every day.

I congratulate the man on my left, HARRY REID. No Senate leader has ever had the good fortune I have had to have an assistant like the man from Searchlight. He is a profoundly decent man who loves his State, this institution, and his country. If friends are relatives that you make for yourself, then he is my brother.

I thank DICK DURBIN and congratulate him and DEBBIE STABENOW and BYRON DORGAN and HILLARY CLINTON for their willingness to take on the leadership roles in the 109th Congress. I will say that this Senate and the caucus could not be served better.

I congratulate especially CHUCK SCHUMER for taking on what may be one of the most challenging of all leadership positions. I know that he will serve us well.

I can remember so vividly 10 years ago when I was elected by one vote. I came to the Senate very nervous and filled with trepidation, but I recognized that we had a job to do. I wanted to use the power I had been given wisely, recognizing that it was entrusted to me so we might make the lives of all people better.

Shortly after I was elected leader, I was asked to come to dinner with a good friend of mine, a man in his eighties, whose name was Reiners, from Worthing, South Dakota. Dick was a farmer, had been one of my strongest supporters, most loyal and dedicated friends, one of those people we can all identify with. He asked me to come to dinner that night and I went out to his farmhouse. We had dinner. I asked him for advice. He paused and he looked at me and he said, ''There are two things I will hope for you. One is that you never forget where you came from. Come home. Remember us.''

And then he pointed to some pictures on the wall that I recognized very readily. They were pictures of his grandchildren. He said, ''You have held each one of those grandkids, as have I. Give them hope. Every day you walk onto the Senate floor, give them hope.''

We hugged each other and I left. Later on that night, I got a call in the middle of the night that Dick Reiners had passed away. I never, ever, have been given better advice in all the

years before or since and I remember it now.

We come to this body with great goals, and our challenge is to stay focused on those goals, to never lose sight of them in the daily challenges and the battles we take on as we come to these desks.

Two touchstones, in particular, have helped me remember my goals.

The first touchstone is this desk, the leader's desk. You pull open this drawer and you see the names of all the leaders carved in it. It is a constant reminder that we are part of a continuum, a continuum that makes us the heirs and the guardians of a miracle. That miracle is democracy—a government founded on the ideal of freedom.

We have sworn to protect that ideal. We have a challenge, as we sit at these desks, to do what soldiers have done for 200 years. We either have to fight for this freedom or work at it. In more than 30 wars, 1 million men and women have given their lives for that freedom, and our job is to work at it as if we have given our lives, too—every day. We have to protect and defend that freedom and we must pass it on to future generations undiminished.

My second touchstone is a practice I acquired many years ago, making it a habit to get into my car and drive without a schedule to all the counties of South Dakota. There are 66 of them. I do it to be energized, to refresh, to touch the land, to watch the sunsets and the sunrises, the majestic beauty of my State. But more than anything else I do it to be inspired, and to remember how what we do here touches the lives of those I represent.

It is an amazing feeling to drive from one county to the other and to see the results of our work in this body. I am honored and very grateful that there is not one county in the State of South Dakota that has not been touched by our work and our efforts these years I have been here, touched in ways large and small.

We now are an energy-producing State, which means a lot to me. People said that would never be possible. We have little oil, very little natural gas, no coal—but we now produce 400,000 gallons of fuel a year that otherwise might be imported. We passed farm legislation that is truly giving our farmers and ranchers hope for a better future.

My State suffers from poorly distributed water. Our challenge has always been to find a way to take the good water and get it to those locations where they have none. One of the most emotional experiences I have ever had was to watch a family turn on a tap for the first time and cry and embrace each other and pass around a glass and look at it and say ''thank you.''

I am honored to have been a part of creating a new future for Indian students who had long ago given up any hope of graduating in a traditional way, but who now can walk through the doors of tribal colleges with a true sense of fulfillment and optimism that they only dreamed of just a few years ago.

The joy of walking into a town and talking to people and being embraced by total strangers who tell you that saved their lives because of something your staff did, recognizing that if it had not been for you, perhaps there would be no life to save. What an honor. What a sense of gratitude.

As leader, I have been privileged to meet some of the greatest leaders of our time. I believe that Nelson Mandela would probably rank in a class by himself. Vaclav Havel, Lech Walesa, Mother Teresa, Rosa Parks, Presidents and kings: I have been inspired by them—but not as inspired as I have been by people who are not well known:

Carolyn Downs, who runs the Banquet in Sioux Falls, SD, touching lives every day and giving them hope.

Louie and Melvina Winters on the Pine Ridge Reservation, who had absolutely nothing to their name and took a burned out trailer house, rebuilt it, and have literally saved the lives of hundreds, if not thousands, of children who had no other place to go, whom they found on their doorstep when the word got out that somehow they were the ones to whom children could turn.

Chick Big Crow, who witnessed the death of her daughter, only to make the lives of young people on Pine Ridge richer with her steadfast determination to build a Boys and Girls Club.

And there are those like Elaine, who gets up at 4:30 in the morning to go to work. She's 77 years old, with $900 a month in Social Security and $900 a month in drug bills. She works at McDonald's to be able to pay for the rest of her living expenses, and says she is proud to do so.

And Mary Ann, who works three jobs, has a blood disease and no health insurance. She says: ''I want you to know something, Senator DASCHLE. I'm going to make it. I'm going to make it, but I would like a little help along the way, if you can find a way to remember me.''

They are the heart and soul of America, and they need us now maybe more than ever before.

We are each given a number when we come to the Senate. I think it is a wonderful tradition. And I have always been so proud of my number. My number is 1776, the year of our Revolution.

I think of that number not just because of its unique nature, but it reminds me every day that we are still part of an American revolution.

As a nation, we are making monumental decisions about what kind of country this will be.

Will we use our powerful might as a force just for vengeance and protection against those who would destroy us, or will we use it for progress the world around?

Will we recognize that power is not just our arms, but our wisdom, our compassion, our tolerance, our willingness to cooperate not just with ourselves but with the whole world?

Will we honor the uniquely American ideal that we are responsible for passing onto our children a future that is better, or will we forfeit the promise of the future for the reward of the moment?

These are questions that we will continue to face.

Several months ago, I came to the floor and gave a speech at this desk expressing the hope that regardless of how the election turned out, we could continue mightily to search for the politics of common ground.

I am proud of those times in this body when we showed our very best.

I am proud of that moment on the Capitol steps when we joined hands and sang.

I am proud of the effort we made after 9/11 to come together to pass legislation that our country so desperately needed, not just for what it said, but for the message it sent.

I am proud of that moment, on October 15, when we were the target of the greatest biological attack in our Nation's history and again we came together.

I am proud of those moments when we found common ground on campaign finance reform and the farm bill and Patients' Bill of Rights, highways, measures that in some cases have not yet become law but demonstrated that here, collectively, with common will, there is common good.

I know we can continue to find common ground because we have found it in the past, as those instances have demonstrated.

If I could leave this body with one wish, it would be that we never give up that search for common ground.

The politics of common ground will not be found on the far right or on the far left. That is not where most Americans live. We will only find it in the firm middle ground of common sense and shared values.

Ten years ago, my wise friend pointed to his grandchildren and asked me to give them hope. Linda and I now have two beautiful grandchildren. I implore my colleagues to give my grandchildren, Henry and Ava, hope; give all the children and grandchildren of this Nation hope.

Let us treasure and protect the great freedoms that we have inherited, and let us always promise and commit that we will pass them on undiminished.

I said a moment ago that one of my touchstones is my unscheduled driving. I make notes constantly on these trips. A couple of days ago I was telling my colleagues about how I had been looking through the notes of a trip I made a few years back. I noted I had met with some tribal leaders, and met with a businessman who was trying to find a way to provide childcare for his family as well as his employees. I met a couple who wanted to tour the White House. At the end of all my notes, I made the comment: ''Everything was worth doing.''

The same could be said for my service here. It has had its challenges, its triumphs, its disappointments, but everything was worth doing. And I am grateful for every moment.

I love history, and there is wonderful history about the relationship between John Adams and Thomas Jefferson. They were rivals, but they respected each other. And that respect grew as they left office and began correspondence that today is some of our most treasured writing.

In one letter to John Adams, Thomas Jefferson wrote, ''I like the dream of the future better than I like the history of the past.'' So it is with me. I have loved these years in the Senate, but I like the dream of the future.

It is with heartfelt gratitude to the people of South Dakota, with great respect and admiration for my colleagues, and with love for this institution and the power it has to make this Nation even greater that I say farewell and look to the future with great optimism, with hope and anticipation.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip is recognized.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 5:10 p.m., recessed subject to the call of the Chair and reassembled at 5:16 p.m.

The PRESIDING OFFICER. The majority leader is recognized.

TRIBUTES TO RETIRING SENATORS

TOM DASCHLE

Mr. FRIST. Mr. President, what we just heard on the floor of the Senate captures the essence of this remarkable, remarkable body, the leadership, which dictates the character, which dictates the fabric of the body that all of us have the real privilege of participating in.

I know several Members want to speak, so I will be very brief. I take a moment to pay tribute to a truly exceptional leader with whom I have had the honor to serve alongside, and whom I have had the opportunity to serve with over the last year. We first began working together 2 years ago, when I suddenly became majority leader of the Senate. Oftentimes, we have been on the opposite side of issues. But I want to say how much I deeply respect his abilities and his judgment as a Senator, as Democratic leader, and as a person.

This environment is fiercely competitive, and as leaders, both he and I are thrust into that competitive environment. Yet Senator DASCHLE has always, always, without exception, handled each and every situation in that competition with class and with honesty, with integrity, with forthrightness, and with true grace.

Clearly, I have had the opportunity to learn from him much more than I could have ever possibly given him in any way. I was the beneficiary of that each and every day. From that very first day that I became majority leader, he has treated me in that position with respect and with that very same grace. For that, I will forever be grateful.

I wanted to pay tribute to Senator DASCHLE and close with one reference. The great Daniel Webster once remarked that the Senate is a community of equals, of men of individual honor and personal character. Indeed, Senator TOM DASCHLE is no exception. He is the epitome of that and a great credit to this venerable institution. On behalf of all of our colleagues, I wish all the best for TOM and Linda and their entire family in the years ahead.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. MCCONNELL. Mr. President, all of us in the Senate have just had an opportunity to hear an extraordinary speech by the outgoing Democratic leader. We are indeed in a very tough and competitive business. On the other hand, when we enter this Chamber, we take on public responsibility and have the obligation to deal with each other in a civil and forthright manner. I think Senator DASCHLE has always met that standard. We all admire his work here. He is one of the longest serving leaders in the history of the Senate. We wish him well in the coming years. He can look back on his extraordinary career here with great pride.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, you can learn a lot about a person by the way he handles winning, and you can learn even more about someone by the way he handles and accepts defeat. TOM DASCHLE does not know that I know this, but I saw an e-mail he sent recently to someone on his staff.

TOM DASCHLE was concerned about a man with whom he talked one day late in the campaign when he was calling undecided voters in his home State of South Dakota. The man was not rich or powerful. He was just an average South Dakota citizen.

This man used to work for the Government. He received many awards at his work. This is what TOM DASCHLE wrote in that e-mail:

> One day, the man started to suffer extreme stress and even depression. The psychiatrist told him he had to retire from his work . . . under a medical discharge. Afterwards, (the government) denied him a medical retirement. They said it can only be for physical reasons.
>
> He was denied medical access and retirement pay. He has since also had a heart attack. He asked me for help in getting a medical retirement. I told him we would be happy to try and would follow up.

TOM DASCHLE in his e-mail went on to say:

> Could you have someone contact him and look into this? It just doesn't seem right.

The date on that e-mail was November 8, 6 days after the election, 6 days after what had to be one of the most heartbreaking losses in his life.

The reason TOM DASCHLE got into politics in the first place, the reason he ran for leadership positions in the Senate, and the reason he worked his heart out for this job was never to get rich or to get attention. He tried to bring power to help the powerless, the average person, the people to whom life had given some unfair breaks.

Even now, until the minute he has to relinquish his power, TOM DASCHLE is using his power to help people who still look to him as their last best hope.

Golda Meir once famously told a political rival:

> Don't be humble. You're not that great.

But TOM DASCHLE is great enough and good enough to be truly humble. He will never talk about all the people he helped, all the people to whom he has given hope, but I can tell you there are people all across South Dakota and all across America whose lives are better because TOM DASCHLE was in the Senate.

''It just doesn't seem right''—that is what TOM DASCHLE wrote in that e-mail, and it just doesn't seem right that we are going to have a Senate without TOM DASCHLE to keep fighting for what is all good and decent about America.

My consolation is that I know TOM and Linda and their family will find another noble way to continue serving this Nation, defending the values we cherish and making life better for people who need a champion.

Someone noted that this is a cruel business, and it is. There are three ways to leave the Senate. Two of them are not very good. In this situation, we have seen a man who has given 26 years of his personal life to South Dakota and to the Nation, and he made a decision a year ago to retire. In the past year, I am sure there would have been a succession of tributes, dinners, schools, and highways and bridges being named after him and maybe statues and plaques commissioned. But instead, he stood for election. He had the courage to stand again. Although he did not succeed, I hope the people of South Dakota realize that he was a man who loved them throughout his political life and those of us who were honored to call him a friend and a colleague love him and will miss him.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, when the 109th Congress convenes this coming January, the Senate will be a poorer place for not having TOM DASCHLE among its Members.

By nature, TOM DASCHLE is a South Dakotan to the core, born and raised and regularly returning to his hometown of Aberdeen, with a population today of not quite 25,000. He was the

eldest of four children in a family who knew the meaning of hard work and family. He went to college, the first in his family to do so, at South Dakota State University, some 150 miles from his home. When his colleagues elected him Democratic leader, TOM DASCHLE asked an old friend back in South Dakota, as he told us on the floor only a few moments ago, for advice, and was promptly told: Never forget where you came from.

That was something TOM DASCHLE knew without being told. If he had set out to forget where he came from, he could not have done it. The unscheduled driving tour that he made every year around South Dakota was a kind of pilgrimage. It did not create his close ties to South Dakota and its people; rather, it reflected them. As an editorial published on November 6 in TOM's hometown newspaper, the Aberdeen American news, noted, ''Personal stories abound of how DASCHLE and his staff have been able to get things done for the average South Dakotan.''

The editorial concluded with a tribute worth quoting:

> On behalf of all the thousands of people you have helped, we would like to offer you our deep gratitude and respect. With quiet dignity, you fought for the State that raised you and which still so obviously holds a special place in your heart. Thanks, TOM, and good luck.

If by nature TOM is a South Dakotan, by choice he is a public servant. After receiving his college degree in 1969, he served 3 years in the Air Force Strategic Air Command, one of the relatively small number of Members now serving in the Congress who served in the military in that period. And he has remained a forceful advocate for veterans throughout all his years in public office.

He entered the House of Representatives after a vote so close that it took a recount almost a full year, and TOM became known as ''landslide'' DASCHLE.

Following his service in the House in 1986, he was elected to the Senate. In his 18 years in this body, TOM's agenda for action on behalf of the people of South Dakota has focused on health care, education, the outdoors, security and safety, economic opportunity, and rural life. Any State would be doubly fortunate to have an agenda and an advocate as dedicated and skillful as TOM DASCHLE.

By temperament, TOM DASCHLE is a Democrat in the fundamental meaning of that word—respectful of others, a scrupulous listener, seeking consensus in the middle ground on complex and controversial issues.

Time magazine has accurately described his instinct for courtesy, reputation for humility, a willingness to compromise, and a sense of Midwestern civility.

TOM DASCHLE's steadiness and reasonableness made him especially well-suited to assume the responsibilities of majority leader in that painful period when the country was dealt successive hammerblows by a recession, the crisis in the capital markets, and, above all, the tragic attacks of 9/11 and their aftermath.

While others shouted at fever pitch, TOM DASCHLE never raised his voice because it is not in his temperament to do so. His calm manner was profoundly reassuring to worried Americans, as was the strength of his resolve.

In the end, it is TOM DASCHLE's own words that tell us all we need to know about him.

They explain why he is so respected around his State and here in the Senate. His November 3 statement to the people of South Dakota who support and love him speaks again and again of gratitude—gratitude for the opportunity to serve, gratitude to his family, gratitude to his devoted staff, gratitude to the State that is his extended family. It speaks of belief-in our people, in the future, in what can be accomplished by people working together. It speaks of work—of work yet to be done. And it speaks of hope.

On November 3, TOM compared the sunset over the mall with the sunrise over Mount Rushmore and concluded, ''Having seen sunsets and sunrises, I like sunrises better.''

There is no question of TOM's public service having ended; the only question is the direction it will now take. TOM DASCHLE has honored Teddy Roosevelt's dictum that ''Far and away the best prize that life offers is the chance to work hard at work worth doing.''

It has been my privilege to work with so dedicated and honorable a public servant, a dear friend. I like to think that our work together on behalf of the people of this great country will continue as we move on into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to join my colleagues in complimenting Senator DASCHLE for his years of service. I did not really know TOM DASCHLE when he served in the House. I have had the pleasure of serving with him for the last 18 years in the Senate. Many of those we were both in leadership, and I will just say our relationship has always been very good.

Having the pleasure of working with TOM DASCHLE and HARRY REID, both for whom I have great respect, many times we were political adversaries, but we were always friends. We never had a heated exchange, maybe elevated on occasion, but we always were friends and we could always shake hands at the time we might have somewhat of a heated discussion. We would always remain friends, and he continues to be my friend to this day.

I compliment him for his many years of public service to his State of South Dakota, for his service in the House of Representatives, his service to the Senate, and his service as the Democrat leader. He is a very competent individual, speaker, and representative of his viewpoint, and he happens to be my friend. I wish TOM DASCHLE and his wife Linda all the best for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I am going to be very brief. For many of us who knew TOM DASCHLE and know TOM DASCHLE, we never thought this day would come. We never thought TOM would really be defeated in an election. I thought a lot about that. Why? I mean, this man is such a good man. He is such a good friend. He is a good leader. I do not know anyone who cares more about their State and who has worked harder.

He talked about the State's energy sufficiency, and it was TOM DASCHLE's sheer will of support to develop an ethanol industry for the State. I know because I tangled with him year after year because from a California perspective this was not such a good idea; from a South Dakota perspective, it was. For TOM, his State always came first.

I thought he was unbeatable. He is for the little people. I remember being in the State. I remember hearing him talk about the Pine Ridge Indian Reservation and the state of the people in Pine Ridge and how deeply he felt. When he feels very deeply, his voice gets that quaver and it drops low.

This is a very hard day for many of us. As I went down the aisle to embrace TOM, two people said this really is a tough business. And, in fact, it is a tough business.

I also want to say that TOM DASCHLE was a great leader for our caucus. Many of us on many days watched him convince, cajole, push, and bring us together when we had to be together. We watched him on the Senate floor in the middle of the night, early in the morning, late in the day, always gracious, always patient, always articulate. We never had to worry about TOM DASCHLE's integrity or his credibility.

I still wonder, how could he be beat? This is such a good man, such a good leader, such a good State representative. For me and my husband he was a personal friend. When Dick was in Washington, early in the morning he would run with TOM and they would talk about all kinds of things. The run was always a good one and my husband would come home and always say what a great guy TOM DASCHLE is.

I think for all of us we wish him all the best. For me, I do not believe this man has reached his potential yet. I think he still has enormous gifts to give to this Nation, to his State, and I believe he will, perhaps in a different way. Perhaps we will see him come back in a different form. For TOM DASCHLE, these 10 years were very special years and for us we were so privileged because we had an opportunity to be led by a good man, by a great friend, and by a great leader.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I first join the voices of my friends and my

colleagues in talking about our dear and great friend, TOM DASCHLE, with whom I had the privilege to serve for the last 6 years, and to be led by for the last 6 years. I have never known a better human being or a better public servant than TOM DASCHLE. He is a good, honest, decent, and honorable man. The Senate will miss him. The country has benefited from his long and extraordinary service to this country.

FAREWELL

Mr. EDWARDS. Mr. President, life has a great way of handing us moments that are bittersweet. I am sad today to rise for the final time to represent the State of North Carolina as their Senator, but I am also filled with a great deal of joy because I will be heading home to the place and the people and the family I love so much. I also want to thank everyone who is listening and all Members of the Senate and the staff who have been so extraordinary about my wife Elizabeth for their prayers and their support.

Elizabeth and I and our family draw so much strength from all of you. We are comforted by your words and your prayers.

We are grateful to the more than 50,000 people who have sent e-mails and letters to Elizabeth. As Elizabeth's brother said when he was asked about it, he would not want to be cancer inside of Elizabeth's body, and I agree with that.

She is the love of my life and a woman of great strength. I am sure she will be successful in this fight. Both of us hope and pray that by talking about it in the way that Elizabeth has, and with the grace and courage that she has shown, it will help other women who are faced with the same kind of struggle so they can avoid the same kind of struggle.

Sometimes when hardship comes, one feels alone, but thanks to all of you and our family in the Senate, we know that we are not alone. We are blessed to have the love, affection, and support of our friends and our family, our great staff in Washington, DC, in the Senate office and back in North Carolina and our Senate offices there, and also the staff in the Senate.

Those who serve on the floor of the Senate who have been wonderful friends and so much help and support for all of us, we thank all of them. To Marty and to Lula, whom Elizabeth and I adore, who have been wonderful friends to us and have advised us and shown us our way around here, we appreciate both of them. To the people in the cloakroom who have helped us and taken care of us for the last 6 years, and to the men and women—and I hope they will hear my voice—who take us up and down the elevators, whom we see as we go in and out of these office buildings and the Capitol, who serve all of us and who are wonderful, extraordinary people, I have to say, since I have come back from the campaign trail, to a person they have spoken their support and affection for Elizabeth and for our family and what we are going through. I just want them all to know how much they mean not only to us but to all of us who serve in the Senate.

And, of course, to all the men and women I have had the privilege to serve with here in the Senate. To those who think the men and women who serve in this institution do not work hard, I wish they could spend one day here and see how hard it is and how devoted everyone who serves in the Senate is, and how much they want to do good things for the country—whatever our disagreements are. We have many and they are strong. The truth is, everyone here serves because they love their country and they want to do good things for their country.

All of you, you keep us strong. You keep us going. You remind us, in good times and in bad, when we work together, everything is still possible here in America. It is the North Carolina way. That is the way I like to look at it. I have never loved my home State or my country more than I do today. We have had some triumphs, we have had some tragedies over the last 6 years. But one thing is clear: I will never stop representing the people of North Carolina, the values they represent and the values that I grew up with there and the values I believe in. The truth is, it is who I am.

It is what I learned in Robbins, NC growing up, watching my father and the men and women who worked alongside him in the mill for all those years. It is what I learned from going to church, from going to our schools, and from going to all 100 counties in North Carolina, which I am proud to have done, and listening to the people of North Carolina. It is what I learned when I shook the hands of the people who came on Tarheel Thursday, which we had on Thursday when we were here in the Senate. I will never forget you.

I will never forget the first struggle we had in the wake of Hurricane Floyd, hard-working people like Bobby Carraway. He owned a restaurant in Kinston near the Neuse River. It sat under 3 feet of water for days. He lost everything. He and so many like him didn't want a Government handout, they wanted a hand up and a chance to do what they were capable of doing and a chance to go back to work, which is all he and his family had ever known their entire lives. What we did then for so many, and this year, too, in the western part of our State, which has been hit by hurricanes and flooding, is we worked together, we picked ourselves up, we dusted away the disappointment, and we got back to work to make North Carolina stronger.

I will also never forget the men and women who worked at Pillowtex. They did everything right. They took care of their families. They went to work every day, some of them for days and years, some of them for decades. They still couldn't stop their jobs from moving overseas.

I met one woman whose question I hear over and over—I heard it over and over again as I traveled around the country. She looked at me and said: What am I supposed to do now? Have I not done what is right in America? I worked hard, I raised my family, I was responsible. Now my job is gone and what am I supposed to do?

Together we fought to help her pay for health care and get training for a new job but, most importantly, we fought to keep North Carolina jobs in North Carolina where we need them so badly. We stood up against tax breaks that shipped our jobs overseas. We fought for fair trade that gave our workers and businesses a chance to compete, and represented the values we believe in.

I will also never forget Dr. Clay Ballantine. He works at Mission St. Joseph's Hospital in Asheville, NC. Every day he sees kids and adults and seniors who come in with respiratory problems, problems with asthma. He told his story as we fought the battle to protect the quality of our air for our children and for our seniors.

I will never forget the farmers and the men and women who live in our small towns, our rural areas where I grew up. That is who I am. The truth is, you are the heart and soul of North Carolina. When our farmers were struggling, especially our tobacco farmers, I am proud in the end we were able to do something, to do something to help them, because they deserve it. They have done so much for their towns and their communities and for my State. They deserve something, finally, to be done to help them and support them. All of us together were able to do that.

It also matters, it matters to good, hard-working people like Blythe and Gwendolyn Casey. They have had a family farm for decades. They did their part and they never dreamed they would be close to retiring, mired in debt, debt they can never recover from. Together we helped them and we maintained family farms across our State of North Carolina.

I will never forget the mothers and the fathers, the husbands and the wives, the brothers and the sisters who wanted nothing but to make sure their loved one got the care they needed in their darkest hour. Together with Senator JOHN MCCAIN and Senator KENNEDY, my friends and my colleagues, two men for whom I have enormous respect and affection, we went to work on something that matters—making sure you and your doctors could make your own health care decisions, especially when they were important to you and your family. It wasn't easy. There were lobbyists all over this place from every drug company, HMO, and big insurance company. They prowled these halls, but we did it and we got the Patients' Bill of Rights passed in the Senate. I have absolute faith that

the Senate will do it again and the President will sign the Patients' Bill of Rights into law for all Americans.

I will also never forget the brave soldiers I met in Afghanistan on a dark night. They are so proud—they were so proud and still are—of serving their country, going after terrorists and Osama bin Laden. I will never forget the thousands of men and women from Fort Bragg, Camp Lejeune, Cherry Point, Seymour Johnson, and Pope Air Force bases, who were serving this country abroad and who were serving the country at home, and whose families were there to support them. I represented them and represented their families and it was an extraordinary honor for me to be able to represent them.

It is simple for me. If you take care of us, if you serve our country to protect the freedoms and ideals we cherish, we should be there for you. Your country should be there for you. That means health care and housing, it means relief on your student loans, and help covering your child care cost when your spouse has to go to work.

The men and women who wear the uniform of the United States of America, they are who we think of and pray for when we look at our flag. The Stars and Stripes wave for them. The word ''hero'' was made for them. They are the best and the bravest, and we will always stand with you when you are standing in harm's way. This is what we have fought for together. It is something of which we should all be proud.

We built on North Carolina's model to improve our schools, to strengthen standards, to expand afterschool, and to pay teachers more. We fought to strengthen security at our ports and our borders, chemical and nuclear plants, and to give our police and firefighters the support they needed to keep this country safe. We fought to make Washington live within its budget, to make sure Washington did what most families in America do every single day, to live within their means, and to restore fiscal responsibility. And we fought to reward work—not just wealth, work—and to ensure that the American dream stays alive and available to every single American, no matter where they live or who their family is or what the color of their skin. This is the America we believe in. This is the America we fought for.

All my life I have fought for those who do not have a voice. I did it before I came to the Senate. I have done it here in the Senate. I will do it for the rest of my life. It is what my life has been about: Fighting for people who need someone to fight for them.

I thank Senator BYRD for all of his guidance and for showing me the ropes during the time I have been here in the Senate.

I want to take a moment and say a word about Senator REID, who has also been a great leader here in the Senate and who I want to wish Godspeed in the important work in front of him.

Again, my thanks to my leader, to our leader, Senator DASCHLE, for the work he has done and the leadership he has shown and the grace and strength and courage he has shown in leading in very difficult times, as others have said. He is a good and decent man and we all look up to him and respect him.

I thank Senator MCCAIN and Senator KENNEDY for including me in working on the Patients' Bill of Rights, two great leaders in this Senate, two great leaders for the country, two Americans that Americans do and should look up to and respect.

I thank my friend, my seatmate, Senator EVAN BAYH, for all the times we have spent together, working here on the floor of the Senate, running together. He and his wife and his family are great friends of ours. His friendship means the world to me.

I also thank my fellow Senate retirees Senator BREAUX and Senator HOLLINGS. One thing I guarantee you: Our accents will be missed here on the floor of the Senate. Hopefully, there will be others who will be able to speak the way we speak.

I also want to say a word about my friend Senator KERRY. I embarked a few months ago on a journey with Senator KERRY, a fight, as we traveled across the country and fought for the things in which we believe. We shared our hopes for this country together. We worked hard to make America stronger. I developed a very strong, close, personal friendship with JOHN KERRY during that time. JOHN KERRY is a good man and he is a good American. I got the chance to see him when others didn't, when there were no cameras around, when there were no crowds. This is a man of strength and conviction and courage. He loves his children. He has a beautiful family, by the way. He and his wife Teresa and their kids became very close with my family and our children.

We feel an enormous affection for them and enormous connection with them because we were engaged in what we thought was a very important cause. It still is a very important cause.

But the reality is that JOHN KERRY is somebody who has loved this country his entire life. He stood up and fought for this country his entire life. I am proud to have been able to spend the last few months fighting alongside him as he traveled throughout the country and the work that he did not just in this campaign but for all the years he served in this Senate before this campaign, and the years he will serve from here on are important. Every day he walks onto the floor of this Senate, the American people will be better for it.

He is my friend. He is my colleague. I trust him.

I believe, of course, that he would have made a great President, and I believe he has great work to do for this country in the days and years to come. It is an honor for me to be able to serve with him in this term.

I also want to thank my staff. I ask unanimous consent to have their names printed in the RECORD.

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

Sophie Milam, Blair B. Milligan, Joyce Mitchell, Carlos A. Monje, Kevin A. Monroe, Robert Morgan, Matthew L. Nelson, Elizabeth E. Nicholas, Ashley I. O'Bryan, Sacha M. Ostern, Joseph W. Parry-Hill, Lauren Partner, Elizabeth Pegram, Philip J. Peisch, Sarah L. Pendergraft.

Anthony Petty, Aaron S. Pickrell, Lesley Pittman, Sally Bussey Plyler, Mary Margaret Propes, Hunter L. Pruett, Jacqueline F. Ray, Karen A. Robb, David E. Roberts, Judith M. Rossabi, David A. Russell, Craig J. Saperstein, Heidi Schneble, David G. Sewell, David L. Sherlin.

Joseph L. Smalls, Julianna Smoot, Joshua H. Stein, Michael Sullivan, Johathan Sumrell, Adrian Talbott, Noelle Shelby Talley, Bradford T. Thompson, Cindy E. Townes, Brooke I. Turner, Ann S. Vaughn, Jannice T. Verne, Rebecca Walldorff, Jewell E. Wilson, Jessica F. Wintringham, Andrew A. Young, Lisa E. Zeidner.

Mr. EDWARDS. Mr. President, we couldn't do the work we do here without the support and help of all those who work so hard with us every single day. You show up every day. You show up every day, in my case as I saw it, with a simple question: What can I do to make my country better? And you did. Those of you who worked with me, I know that you did; I saw it. I saw the hard work you did, and you will continue to do it because you believe public service is an important and noble calling. I thank you personally. I thank you on behalf of the people of North Carolina and the people of this country. I have seen the hard work you have done, and it is important.

This fight goes on.

I will be home in a place I love, North Carolina, the place that made me love America to begin with. I am going to have God's gift—more time to hear the screen door slam when my young kids run through the house after school. I still have a couple of young kids, Emma Claire, who is 6, and Jack, who is 4. I will be able to spend more time with my older daughter Kate, who graduated from college and was out on the campaign trail. I am very proud of her. I will have more time to spend with my own parents and my family and more time to be there for the woman I love and have loved for a long time now, my wife Elizabeth.

It is bittersweet knowing what we have accomplished. And it is also bittersweet knowing what is left to be done. There is so much work left to be done in this country.

And in the end, I always think of North Carolina's own Thomas Wolfe. He said:

> I believe that we are lost here in America, but I believe we shall be found. And this belief, which mounts now to the catharis of knowledge and conviction, is for me—and I think for all of us—not only our own hope but, America's everlasting, living dream.

Our job is making sure that no one—no one—is lost in America; that that

dream is everlasting. And together we will continue to make it stronger and more alive for all who grace our lives.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I would like to make some comments about our friends who are departing the Senate.

I thank Senator EDWARDS for spending some time in this Chamber. When you came in, we were faced with some tough legal issues. We turned to you and you stepped up to the plate. I appreciate that. I thought you did us proud—I am not only speaking as a Democrat, I am speaking as an American—on the campaign trail with the passion for people. You are so articulate and you brought the economic issues home to everyone. I think everyone is better for it.

You are right about Senator KERRY. I think he would have made a great President. I think history will look at his campaign and be kind to him because JOHN KERRY had dignity in his campaign. He stuck to the issues. The debates were fantastic. I believe it served our President well. He had to step up to the plate as well on many of the issues.

I also want to say how much I am going to miss FRITZ HOLLINGS, an amazing man; protector of the consumers, guardian of the budget.

Senator GRAHAM is a champion on the environment and some other issues, protecting senior citizens and Social Security. We will need to hear his voice.

Senator BREAUX was always out there trying to pull us together.

I have to say a word about Senator FITZGERALD because of some tough environmental votes. There he was standing with me. I remember one time he said, I have to stand with you because my son will never talk to me again. It was good to work with him as well.

I want to finish my remarks by saying TOM DASCHLE is a man of great courage and compassion and wisdom, quiet leadership. I think today as we listened to his remarks, his farewell to the Senate, we saw his goodness, we saw his intelligence, and as my senior Senator said, it is tough to imagine people wanting something different than what TOM DASCHLE offered them. But that is what it is about. It is about elections.

I say that TOM DASCHLE will go down as a great leader of this Senate, as a man who put issues ahead of his own personal gain. I think he is a role model for each and every one of us. He is a class act.

I say to him and Linda, Godspeed. I know that in future years you will be very much on the scene because you have so much to offer. You have such a sense of history and such a sense of the future. It is bittersweet. But it is an honor to have known TOM.

Thank you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I want to close by associating myself with the remarks of the Senator from California and her regards and respect to the other retiring Members, particularly Senator EDWARDS who has just spoken and has distinguished himself so impressively over the last year and half in the service of our country by seeking the Vice Presidency.

I am proud of my State of Minnesota. They cast by a majority over 100,000 votes for Senator EDWARDS and Senator KERRY, reflecting the wisdom of voters in the tremendous excitement of Senator EDWARDS and Senator KERRY. But Senator EDWARDS, in my personal experience, generated tremendous courage and enthusiasm in St. Paul, MN on Labor Day and on the Iron Range in Minnesota. He has a very bright future in whatever future endeavors.

I join my colleagues in expressing to his wife Elizabeth our prayers for a speedy recovery. I think that will be the result.

I thank the Senator for his outstanding service and as leader of our party and our country.

I also want to join my colleagues in expressing my highest personal regard for Senator DASCHLE. It is, like others, a hard time for me. It was very hard in the next day after the election to hear the results in South Dakota. I have always had and will continue to have the greatest respect for the democratic process in this country. It is the ultimate and appropriate judgment of the people. I felt that way even when I disagreed with the verdicts they rendered.

I must say to the very slightest of majority, the voters of my neighboring State in South Dakota, with all due respect to them and their rightful judgment, that in my humble opinion you were wrong. You cannot fully understand the extraordinary leader, the superb public servant, and the phenomenal human being you had in TOM DASCHLE as your Senator, and as all of us in his caucus knew we had in our Democratic leader.

What makes it so hard is he has been taken away from us despite our wishes, and taken away from the country. And it is very hard. It is hard, frankly, to hear all the false praise of someone who went beyond the boundaries of comity, of bipartisanship, of deserved respect for a leader, who campaigned against TOM, who violated the boundaries of his own State and disparaged him; and, most recently, the comments of the incoming chairwoman of the Republican Senate Campaign Committee which were untrue, unwarranted, and just plain foul. TOM DASCHLE has too much decency to say so.

That was the irony in and the indecency of those remarks. They were directed after the election, after the victory against the most decent man I have ever met in politics, TOM DASCHLE. He is a gentleman in the very best sense of that word: strong in his principles, firm in his convictions, fierce in his dedication to serving the people of South Dakota and their best interests, but a gentleman in his decency, his personal respect and the senatorial courtesies he extended to every one of his colleagues.

But TOM, being the man he is, would not want me to end on such a note. So I will not. I end by thanking him, thanking him for his leadership over the last 4 years, from the time during which I have been privileged to serve under his leadership, for mentoring me, giving me the opportunities I have had in committee assignments, to listening to me and offering his astute guidance and experience and wisdom. I thank him for showing me by his living example every day and every night in the Senate what it means to be a great Senator, what it entails, the dedication, the hard work, the hours, the travel; what it means when you can do what TOM DASCHLE has done for his State to save people's lives, to improve people's lives, create new opportunities for young and old, what he has done for his country, what he has done for people who are not his constituents who cannot even thank him and won't be able to vote for him. But that did not matter because he had the opportunity and he seized the opportunity to do things that benefited their lives.

Thank you, TOM DASCHLE. Thank you for being a superb leader. Thank you for being a great Senator. Thank you for being a phenomenal human being. I wish you well.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we could not help but note the sadness we all experienced as our friend and leader, TOM DASCHLE, made his goodbye speech. As usual, when TOM DASCHLE spoke, it had meaning, substance. He certainly had that as he closed his chapter here—I hope not his book, just his chapter.

He talked about things he cared about and people he cared about and what it is that drove him to take this job. Everyone knows how difficult a task being a leader in the Senate is. It is not always realized outside this Chamber how hard one has to work to please so many, to sacrifice so much in terms of personal life.

TOM DASCHLE, our leader, distinguished Senator from South Dakota, outstanding leader—not just for this side of the aisle but the entire country. He lost an extremely tough, close race a couple of weeks ago.

TOM DASCHLE is the stuff of which so many of our lives in the Senate are made.

It is a sad day. It is not just a sad day for me, who treasured the friendship I had with TOM DASCHLE, listened carefully to his words and followed, for the most part, the directions he portrayed for all Members here, it is a sad day, obviously, for TOM DASCHLE's family; it is a sad day for the Senate and a sad day for everyone in this great country of ours.

I said TOM is the stuff of which so many of our lives are made. It is quite hard to see in this place of splendor the route so many Members took to get here. There is a substantial difference in age between TOM DASCHLE and me but I had a similar experience. I was the first in my family to go to college. My parents were hard-working people. They did not work on a farm but they worked in the store. They worked in the mills. My father worked in the silk mills of Patterson, NJ, a factory town.

What was the legacy they imparted? It was to work hard, to believe in America, to believe in yourself. Try to achieve a degree of respect and dignity. That is what my father did for me, even after I had enlisted in the Army and he was on his deathbed from cancer. The messages were all profound: work, study, learn.

He took me into his factory one time and said: You must never work like this, so dirty, so dusty, so noisy, so dangerous. He knew it was dangerous, that there was something in the weaving of that silk fabric where they used chemicals to keep it from growing too brittle, to keep the machinery oiled. It took my father, his brother, their father, at very young ages.

When we hear TOM DASCHLE talk about his background, how his parents worked to provide him with not the funds but the incentive to make something of his life, to give something back to America, we know TOM DASCHLE is a model for so many to follow, with that commitment to decency and honor.

It is a sad day when we reflect on what happened in TOM DASCHLE's last race. He wanted to be here. We wanted him to be here. TOM has been an effective leader for us for 10 years. The Republicans threw everything they could at him, including some $20 million in that race, including some insults in recent days. And then to not permit the man to leave with grace and hold his head high—no, called him an obstructionist.

I know when the shoe is on the other foot what happens, when the minority has to fight like the devil to keep from being rolled over by the majority. We saw it when we were in charge. How I miss those days when we were in charge. The Republican Party, the minority party, they did their filibustering. They did their obstruction. They did the things needed to protect the interests they thought served their constituents, their States, and their country.

It was ungracious when the Republican side could not find enough of their Members to sit here out of respect. I remember being here when Bob Dole left and I could not wait to sit in my chair and salute his contribution to America and to this body, because, although Bob Dole could disagree with you, he was always interested in the well-being of the country. You saw it from the result of his service to country and the military.

I do not know why, in the closing days, some element of comity, some element of grace, some element of respect for a human being could not have gotten some of our friends out of their offices to come down to the floor. You saw the applause. The applause that I paid most of the attention to was from the people who work back here, the people who saw TOM DASCHLE at work every day. They know what he meant to them personally, to this country, to this institution. That is why they stood and applauded so vigorously. You saw TOM's colleagues standing here, hating to let go, hating to let him leave the room. They did it with their applause and their hugs, their glances, and their tears.

So we are sorry that the TOM DASCHLE segment of service to this country and to this body is over. As usual, as always, there was a characteristic graciousness in his departure, in acknowledging that he had lost the race. Everyone here has some sense of how painful it could be, especially being leader of the party, especially when they threw everything in the book at him that they could pick up.

It is not going to be easy to forget TOM DASCHLE. We are going to miss him. He had wonderful service to country. He served as an intelligence officer in the Air Force for 3 years. He won his first race. Many cited the chronology of his climb to leader of the Democratic Senate. He carved out a national reputation. People knew who he was, but he never forgot his South Dakota constituents.

We heard him talk about them. He talked about traveling to each of the State's counties every year as an unscheduled driving tour, where he stopped at the local clubs, the Elks Club, the cattle auctions, the health clinics, schools, cafes, police stations, or any other place where people could gather to hear him talk about what was on his mind, and to listen to them talk about what was on their mind.

TOM has been an effective legislator. His aim: to help his constituents, help his country, help those who were less fortunate across America. He fought hard for small farmers in his State.

We did not always agree. Those of us who come from an urban environment disagreed with some of the votes he took. But he always remembered from whence he came. He fought hard for the people that he believed in, for Native Americans from his State, veterans exposed to Agent Orange. I joined him in that fight because I always believed anyone who had any remote contact, no matter how remote or how short a period of time, with Agent Orange should be treated as any other veteran or any other soldier who had a wound because we know what Agent Orange has done to so many who have served so well, so loyally in a war we could not agree on, much like what we are seeing now in our country. And we had to respect his insistence that we remember these people, the seniors, and the people in the rural parts of the country where the economy has never really been robust.

Nature always takes its toll. But TOM insisted we fight back, that we make sure the farm community continued to exist in this country so we could produce the nutrition that is so vital—the products we all use so regularly.

And TOM is so young looking, soft spoken, self-effacing, and fundamentally decent. He was actually mistaken for a paperboy one time. But beneath that wonderful exterior, that almost placid view of things, there was a spine of steel. He could get up and fight hard and fight for the issues. His leadership for us—and, believe me, it was not easy. It is not easy on the Democratic side, it is not easy on the Republican side, I am sure, to pull everybody together because each of us has differences that come from our geography, from our State, from the culture within our States. But the fact is, TOM could get us together on the most difficult issues, not always 100 percent, not always in victory, but always with vigor and always with commitment.

TOM has devoted practically all his entire life to public service. We are going to miss his leadership, his counsel, and his friendship.

In my closing comments to him I said: We are saying kind of so long but hopefully not really goodbye. We want to hear from TOM DASCHLE. I have made a plea to him that he stays involved with the public interest. I hope he is going to do that. TOM will have many offers for commercial development and to make lots more money, but he feels an obligation down deep, as I would think most of us or all of us do here, to try to do something that counts.

I encourage him and his great wife Linda to get through this difficult, difficult period. It is not easy when you are the leader to lose a race. It is never easy, but it is particularly difficult when you have had leadership responsibilities.

So my message to TOM is: TOM, keep that spine of steel. Keep that interest that you have in the well-being of our society, in the belief that America can recover from all kinds of difficulties, some of the worst that we are facing right now. It is not just the war, as painful as that is.

I have a display in front of my office of young faces, of people, many of whom are in their teens, late teens, 18, 19. I enlisted in the Army when I was 18. I did not realize then I was such a baby. I realize now that 18 is so, so young. But I have those photographs there as reminders about what the price of this war really is. It is not just the financial side, which is enormous. It is not just the humiliation side, which is enormous, the humiliation because we failed to have the appropriate intelligence, intelligence to tell us even most recently how difficult Fallujah was going to be. We underestimated, and as a consequence the costs

are heavy. In the last week, we lost two people from New Jersey. We are now over 1,200 who have died in the course of that fight.

But again, TOM DASCHLE, and I think all of us here, have to continue to fight for what is right. We can endure our differences here. I will tell you what we cannot endure. We cannot endure the bitterness that exists across the dividing line here. We cannot endure the vitriol that is constant in this room of ours. We cannot endure the anger that exists. We have a cause that is greater than all of us.

I am not saying it all comes flowing this way, but I am saying it is unpleasant. I have now had 22 years since I arrived. It is now 22 years since I arrived in the Senate. I remember different days. I remember days when you could disagree and still be able to say hello without grimacing when you saw one of your colleagues. Lord willing, I hope TOM DASCHLE taught us some of that, with his graciousness, his characteristic willingness to listen and to understand and get back to you when a problem existed.

So, Mr. President, I am going to yield the floor, but I do want to talk about our other colleagues who are retiring in a few minutes. There are a lot of good people here on both sides of the aisle.

We are going to miss all of our friends over here, but I am going to miss DON NICKLES. I have had a lot of fights with him, but I know he always knew where he wanted to go. I respected that.

PETER FITZGERALD, newer among us, but a gentleman to be noted, and BEN NIGHTHORSE CAMPBELL comes from a State I love. I have two grandchildren there. He is a decent fellow. We are going to miss all of them. I will talk about them later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I know this is a time of recognition of our retiring Members on both the Republican and Democratic sides. If I can step in for a moment, we have cleared a variety of bills to be moved at this time. I will proceed to do that.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

THE CALENDAR

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the en bloc consideration of the following Indian Affairs bills: Calendar Nos. 697, H.R. 2912; 777, S. 2605; 795, S. 519; 710, S. 1530; 654, S. 1996; 787, S. 1438.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the amendments at the desk, where applicable, be agreed to, the committee amendments, where applicable, be agreed to, the bills be read a third time and passed, the title amendments, where applicable, be agreed to, and the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bills be printed in the RECORD.

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

SOVEREIGN RIGHTS OF THE OSAGE TRIBE

The bill (H.R. 2912) to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government, was considered, ordered to a third reading, read the third time, and passed.

H.R. 2912

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

SECTION 1. REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Osage Tribe is a federally recognized tribe based in Pawhuska, Oklahoma.

(2) The Osage Allotment Act of June 28, 1906 (34 Stat. 539), states that the ''legal membership'' of the Osage Tribe includes the persons on the January 1, 1906 roll and their children, and that each ''member'' on that roll is entitled to a headright share in the distribution of funds from the Osage mineral estate and an allotment of the surface lands of the Osage Reservation.

(3) Today only Osage Indians who have a headright share in the mineral estate are ''members'' of the Osage Tribe.

(4) Adult Osage Indians without a headright interest cannot vote in Osage government elections and are not eligible to seek elective office in the Osage Tribe as a matter of Federal law.

(5) A principal goal of Federal Indian policy is to promote tribal self-sufficiency and strong tribal government.

(b) REAFFIRMATION OF CERTAIN RIGHTS OF THE OSAGE TRIBE.—

(1) MEMBERSHIP.—Congress hereby clarifies that the term ''legal membership'' in section 1 of the Act entitled, ''An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes'', approved June 28, 1906 (34 Stat. 539), means the persons eligible for allotments of Osage Reservation lands and a pro rata share of the Osage mineral estate as provided in that Act, not membership in the Osage Tribe for all purposes. Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own membership, provided that the rights of any person to Osage mineral estate shares are not diminished thereby.

(2) GOVERNMENT.—Notwithstanding section 9 of the Act entitled, ''An Act For the division of lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes'', approved June 28, 1906 (34 Stat. 539), Congress hereby reaffirms the inherent sovereign right of the Osage Tribe to determine its own form of government.

(3) ELECTIONS AND REFERENDA.—At the request of the Osage Tribe, the Secretary of the Interior shall assist the Osage Tribe with conducting elections and referenda to implement this section.

SNAKE RIVER WATER RIGHTS ACT OF 2004

The Senate proceeded to consider the bill (S. 2605) to direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes, which was reported from the Committee on Indian Affairs, as follows:

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

S. 2605

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 ''Snake River Water Rights Act of 2004''.

[SEC. 2. PURPOSES.

[The purposes of this Act are—

[(1) to resolve some of the largest outstanding issues with respect to the Snake River Basin Adjudication in Idaho in such a manner as to provide important benefits to the United States, the State of Idaho, the Nez Perce Tribe, the allottees, and citizens of the State;

[(2) to achieve a fair, equitable, and final settlement of all claims of the Nez Perce Tribe, its members, and allottees and the United States on behalf of the Tribe, its members, and allottees to the water of the Snake River Basin within Idaho;

[(3) to authorize, ratify, and confirm the Agreement among the parties submitted to the Snake River Basin Adjudication Court and provide all parties with the benefits of the Agreement;

[(4) to direct—

[(A) the Secretary, acting through the Bureau of Reclamation, the Bureau of Land Management, the Bureau of Indian Affairs, and other agencies; and

[(B) the heads of other Federal agencies authorized to execute and perform actions necessary to carry out the Agreement;

to perform all of their obligations under the Agreement and this Act; and

[(5) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) AGREEMENT.—The term ''Agreement'' means the document titled ''Mediator's Term Sheet'' dated April 20, 2004, and submitted on that date to the SRBA Court in SRBA Consolidated Subcase 03–10022 and SRBA Consolidated Subcase 67–13701, with all appendices to the document.

[(2) ALLOTTEE.—The term ''allottee'' means a person that holds a beneficial real property interest in an Indian allotment that is—

[(A) located within the Nez Perce Reservation; and

[(B) held in trust by the United States.

[(3) CONSUMPTIVE USE RESERVED WATER RIGHT.—The term ''consumptive use reserved water right'' means the Federal reserved water right of 50,000 acre-feet per year, as described in the Agreement, to be decreed to the Tribe and the allottees, with a priority date of 1855.

[(4) PARTIES.—The term ''parties'' means the United States, the State, the Tribe, and any other entity or person that submitted, or joined in the submission, of the Agreement to the SRBA Court on April 20, 2004.

[(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[(6) SNAKE RIVER BASIN.—The term ''Snake River Basin'' means the geographic area in the State described in paragraph 3 of the Commencement Order issued by the SRBA Court on November 19, 1987.

[(7) SPRINGS OR FOUNTAINS WATER RIGHT.—The term ''springs or fountains water right'' means the Tribe's treaty right of access to and use of water from springs or fountains on Federal public land within the area ceded by the Tribe in the Treaty of June 9, 1863 (14 Stat. 647), as recognized under the Agreement.

[(8) SRBA.—The term ''SRBA'' means the Snake River Basin Adjudication litigation before the SRBA Court styled as In re Snake River Basin Adjudication, Case No. 39576.

[(9) SRBA COURT.—The term ''SRBA Court'' means the District Court of the Fifth Judicial District of the State of Idaho, In and For the County of Twin Falls in re Snake River Basin Adjudication.

[(10) STATE.—The term ''State'' means the State of Idaho.

[(11) TRIBE.—The term ''Tribe'' means the Nez Perce Tribe.

[SEC. 4. APPROVAL, RATIFICATION, AND CONFIRMATION OF AGREEMENT.

[(a) IN GENERAL.—Except to the extent that the Agreement conflicts with the express provisions of this Act, the Agreement is approved, ratified, and confirmed.

[(b) EXECUTION AND PERFORMANCE.—The Secretary and the other heads of Federal agencies with obligations under the Agreement shall execute and perform all actions, consistent with this Act, that are necessary to carry out the Agreement.

[SEC. 5. BUREAU OF RECLAMATION WATER USE.

[(a) IN GENERAL.—As part of the overall implementation of the Agreement, the Secretary shall take such actions consistent with the Agreement, this Act, and water law of the State as are necessary to carry out the Snake River Flow Component of the Agreement.

[(b) MITIGATION FOR CHANGE OF USE OF WATER.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $2,000,000 for a 1-time payment to local governments to mitigate for the change of use of water acquired by the Bureau of Reclamation under section III.C.6 of the Agreement.

[(2) DISTRIBUTION OF FUNDS.—Funds made available under paragraph (1) shall be distributed by the Secretary to local governments in accordance with a plan provided to the Secretary by the State.

[(3) PAYMENTS.—Payments by the Secretary shall be made on a pro rata basis as water rights are acquired by the Bureau of Reclamation.

[SEC. 6. BUREAU OF LAND MANAGEMENT LAND TRANSFER.

[(a) TRANSFER.—

[(1) IN GENERAL.—The Secretary shall transfer land selected by the Tribe under paragraph (2) to the Bureau of Indian Affairs to be held in trust for the Tribe.

[(2) LAND SELECTION.—The land transferred shall be selected by the Tribe from a list of parcels of land managed by the Bureau of Land Management that are available for transfer, as depicted on the map entitled ''North Idaho BLM Land Eligible for Selection by the Nez Perce Tribe'' dated May 2004, on file with the Director of the Bureau of Land Management, not including any parcel designated on the map as being on the Clearwater River or Lolo Creek.

[(3) MAXIMUM VALUE.—The land selected by the Tribe for transfer shall be limited to a maximum value in total of not more than $7,000,000, as determined by an independent appraisal of fair market value prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.

[(b) EXISTING RIGHTS AND USES.—

[(1) IN GENERAL.—On any land selected by the Tribe under subsection (a)(2), any use in existence on the date of transfer under subsection (a) under a lease or permit with the Bureau of Land Management, including grazing, shall remain in effect until the date of expiration of the lease or permit, unless the holder of the lease or permit requests an earlier termination of the lease or permit, in which case the Secretary shall grant the request.

[(2) AVAILABILITY OF AMOUNTS.—Amounts that accrue to the United States under a lease or permit described in paragraph (1) from sales, bonuses, royalties, and rentals relating to any land transferred to the Tribe under this section shall be made available to the Tribe by the Secretary in the same manner as amounts received from other land held by the Secretary in trust for the Tribe.

[(c) DATE OF TRANSFER.—No land shall be transferred to the Tribe under this section until the waivers and releases under section 10 take effect.

[SEC. 7. WATER RIGHTS.

[(a) HOLDING IN TRUST.—

[(1) IN GENERAL.—The consumptive use reserved water right shall be held in trust by the United States for the benefit of the Tribe and allottees.

[(2) SPRINGS OR FOUNTAINS WATER RIGHT.—The springs or fountains water right of the Tribe shall be held in trust by the United States for the benefit of the Tribe.

[(b) WATER CODE.—

[(1) IN GENERAL.—The consumptive use reserved water right shall be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381; 24 Stat. 390, chapter 119).

[(2) ENACTMENT OF WATER CODE.—Not later than 3 years after the date of enactment of this Act, the Tribe shall enact a water code, subject to any applicable provision of law, that—

[(A) manages, regulates, and controls the consumptive use reserved water right; and

[(B) includes, subject to approval of the Secretary—

[(i) a process by which an allottee, or any successor in interest to an allottee, may request and be provided with an allocation of water for irrigation use on allotted land of the allottee; and

[(ii) a due process system for the consideration and determination of any request by an allottee, or any successor in interest to an allottee, for an allocation of water, including a process for appeal and adjudication of denied or disputed distributions of water and for resolution of contested administrative decisions.

[(3) RIGHTS OF ALLOTTEES.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to the approval of the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.

[(4) INTERIM ADMINISTRATION.—The Secretary shall administer the consumptive use reserved water right until such date as the water code described in paragraph (2) has been enacted by the Tribe and approved by the Secretary.

[(c) SATISFACTION OF CLAIMS.—

[(1) IN GENERAL.—The water rights and other benefits granted or confirmed by the Agreement and this Act shall be in full satisfaction of all claims for water rights and injuries to water rights of the allottees.

[(2) SATISFACTION OF ENTITLEMENTS.—Any entitlement to water of any allottee under Federal law shall be satisfied out of the consumptive use reserved water right.

[(d) ABANDONMENT, FORFEITURE, OR NONUSE.—The consumptive use reserved water right and the springs or fountains water right shall not be subject to loss by abandonment, forfeiture, or nonuse.

[(e) LEASE OF WATER.—

[(1) IN GENERAL.—The Tribe, without further approval of the Secretary, may lease water to which the Tribe is entitled under the consumptive use reserved water right through any State water bank in the same manner and subject to the same rules and requirements that govern any other lessor of water to the water bank.

[(2) FUNDS.—Any funds accruing to the Tribe from any lease under paragraph (1) shall be the property of the Tribe, and the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Tribe under any such lease.

[SEC. 8. TRIBAL FUNDS.

[(a) DEFINITION OF FUND.—In this section, the term ''Fund'' means—

[(1) the Nez Perce Tribe Water and Fisheries Fund established under subsection (b)(1); and

[(2) the Nez Perce Tribe Domestic Water Supply Fund established under subsection (b)(2).

[(b) ESTABLISHMENT.—There are established in the Treasury of the United States—

[(1) a fund to be known as the ''Nez Perce Tribe Water and Fisheries Fund'', to be used to pay or reimburse costs incurred by the Tribe in acquiring land and water rights, restoring or improving fish habitat, or for fish production, agricultural development, cultural preservation, water resource development, or fisheries-related projects; and

[(2) a fund to be known as the ''Nez Perce Domestic Water Supply Fund'', to be used to pay the costs for design and construction of water supply and sewer systems for tribal communities, including a water quality testing laboratory.

[(c) MANAGEMENT OF THE FUNDS.—The Secretary shall manage the Funds, make investments from the Funds, and make amounts available from the Funds for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), this Act, and the Agreement.

[(d) INVESTMENT OF THE FUNDS.—The Secretary shall invest amounts in the Funds in accordance with—

[(1) the Act of April 1, 1880 (25 U.S.C. 161; 21 Stat. 70, chapter 41);

[(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a; 52 Stat. 1037, chapter 648); and

[(3) subsection (c).

[(e) AVAILABILITY OF AMOUNTS FROM THE FUNDS.—Amounts made available under subsection (h) shall be available for expenditure or withdrawal only after the waivers and releases under section 10 take effect.

[(f) EXPENDITURES AND WITHDRAWAL.—

[(1) TRIBAL MANAGEMENT PLAN.—

[(A) IN GENERAL.—The Tribe may withdraw all or part of amounts in the Funds on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

[(B) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe spend any amounts withdrawn from the Funds in accordance with the purposes described in subsection (b).

[(C) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Funds under the plan are used in accordance with this Act and the Agreement.

[(D) LIABILITY.—If the Tribe exercises the right to withdraw amounts from the Funds, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts.

[(2) EXPENDITURE PLAN.—

[(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts made available under subsection (h) that the Tribe does not withdraw under this subsection.

[(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribe remaining in the Funds will be used.

[(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Agreement.

[(D) ANNUAL REPORT.—For each Fund, the Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

[(g) NO PER CAPITA PAYMENTS.—No part of the principal of the Funds, or of the income accruing in the Funds, shall be distributed to any member of the Tribe on a per capita basis.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

[(1) $60,100,000 to the Nez Perce Tribe Water and Fisheries Fund; and

[(2) $23,000,000 to the Nez Perce Tribe Domestic Water Supply Fund.

[SEC. 9. SALMON AND CLEARWATER RIVER BASINS HABITAT FUND.

[(a) ESTABLISHMENT OF FUND.—

[(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Salmon and Clearwater River Basins Habitat Fund'' (referred to in this section as the ''Fund''), to be administered by the Secretary.

[(2) ACCOUNTS.—There is established within the Fund—

[(A) an account to be known as the ''Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account'', which shall be administered by the Secretary for use by the Tribe subject to the same provisions for management, investment, and expenditure as the funds established by section 8; and

[(B) an account to be known as the ''Idaho Salmon and Clearwater River Basins Habitat Account'', which shall be administered by the Secretary and provided to the State as provided in the Agreement and this Act.

[(b) USE OF THE FUND.—

[(1) IN GENERAL.—The Fund shall be used to supplement amounts made available under other law for habitat protection and restoration in the Salmon and Clearwater River basins, including projects and programs intended to protect and restore listed fish and their habitat in the Salmon and Clearwater basins, as specified in the Agreement and this Act.

[(2) NO ALLOCATION REQUIREMENT.—The use of the Fund shall not be subject to the allocation procedures under section 6(d)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(d)(1)).

[(3) RELEASE OF FUNDS.—The Secretary shall release funds from the Clearwater River Basins Habitat Account in accordance with section 6(d)(2) of the Endangered Species Act (16 U.S.C. 1535(d)(2)).

[(c) AVAILABILITY OF AMOUNTS IN THE FUND.—Amounts made available under subsection (d) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

[(1) $12,666,670 to the Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account; and

[(2) $25,333,330 to the Idaho Salmon and Clearwater River Basins Habitat Account.

[SEC. 10. TRIBAL WAIVER AND RELEASE OF CLAIMS.

[(a) WAIVER AND RELEASE OF CLAIMS IN GENERAL.—

[(1) CLAIMS TO WATER RIGHTS; CLAIMS FOR INJURIES TO WATER RIGHTS OR TREATY RIGHTS.—Except as otherwise provided in this Act, the United States on behalf of the Tribe and the allottees, and the Tribe, waive and release—

[(A) all claims to water rights within the Snake River Basin (as defined in section 3(b));

[(B) all claims for injuries to such water rights; and

[(C) all claims for injuries to the treaty rights of the Tribe to the extent that such injuries result or resulted from flow modifications or reductions in the quantity of water available that accrued at any time up to and including the effective date of the settlement, and any continuation thereafter of any such claims, against the State, any agency or political subdivision of the State, or any person, entity, corporation, municipal corporation, or quasi-municipal corporation.

[(2) CLAIMS BASED ON REDUCED WATER QUALITY OR REDUCTIONS IN WATER QUANTITY.—The United States on behalf of the Tribe and the allottees, and the Tribe, waive and release any claim, under any treaty theory, based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin against any party to the Agreement or this Act.

[(3) NO FUTURE ASSERTION OF CLAIMS.—No water right claim that the Tribe or the allottees have asserted or may in the future assert outside the Snake River Basin shall require water to be supplied from the Snake River Basin to satisfy the claim.

[(4) EFFECT OF WAIVERS AND RELEASES.—The waivers and releases by the United States and the Tribe under this subsection—

[(A) shall be permanent and enforceable; and

[(B) shall survive any subsequent termination of any component of the settlement described in the Agreement or this Act.

[(5) EFFECTIVE DATE.—The waivers and releases under this subsection take effect on the date on which the Secretary causes to be published in the Federal Register a statement of findings that the actions set forth in section IV.L of the Agreement—

[(A) have been completed, including issuance of a judgment and decree by the SRBA court from which no further appeal may be taken; and

[(B) have been determined by the United States on behalf of the Tribe and the allottees, the Tribe, and the State of Idaho to be consistent in all material aspects with the Agreement.

[(b) WAIVER AND RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

[(1) IN GENERAL.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the appropriation of all funds authorized under sections 8(h) and 9(d)(1), the Tribe shall execute a waiver and release of the United States from—

[(A) all claims for water rights within the Snake River Basin, injuries to such water rights, or breach of trust claims for failure to protect, acquire, or develop such water rights that accrued at any time up to and including the effective date determined under paragraph (2);

[(B) all claims for injuries to the Tribe's treaty fishing rights, to the extent that such injuries result or resulted from reductions in the quantity of water available in the Snake River Basin;

[(C) all claims of breach of trust for failure to protect Nez Perce springs or fountains treaty rights reserved in article VIII of the Treaty of June 9, 1863 (14 Stat. 651); and

[(D) all claims of breach of trust arising out of the negotiation of or resulting from the adoption of the Agreement.

[(2) EFFECTIVE DATE.—The waiver and release contained in this subsection take effect on the date on which the funds authorized under sections 8(h) and 9(d)(1) of this Act have been appropriated as authorized by this Act.

[(c) RETENTION OF RIGHTS.—

[(1) IN GENERAL.—The Tribe shall retain all rights not specifically waived or released in the Agreement or this Act.

[(2) DWORSHAK PROJECT.—Nothing in the Agreement or this Act constitutes a waiver by the Tribe of any claim against the United States relating to non-water-based injuries resulting from the construction and operation of the Dworshak Project.

[(3) FUTURE ACQUISITION OF WATER RIGHTS.—Nothing in the Agreement or this Act precludes the Tribe, or the United States as trustee for the Tribe, from purchasing or otherwise acquiring water rights in the future to the same extent as any other entity the State.

[SEC. 11. MISCELLANEOUS.

[(a) GENERAL DISCLAIMER.—The parties expressly reserve all rights not specifically granted, recognized, or relinquished by the settlement described in the Agreement or this Act.

[(b) DISCLAIMER REGARDING OTHER AGREEMENTS AND PRECEDENT.—

[(1) IN GENERAL.—Except as expressly provided in this Act, nothing in this Act amends, supersedes, or preempts any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River or its tributaries.

[(2) NO ESTABLISHMENT OF STANDARD.—Nothing in this Act—

[(A) establishes any standard for the quantification of Federal reserved water rights or any other Indian water claims of any other Indian tribes in any other judicial or administrative proceeding; or

[(B) limits the rights of the parties to litigate any issue not resolved by the Agreement or this Act.

[(3) NO ADMISSION AGAINST INTEREST.—Nothing in this Act constitutes an admission against interest against any party in any legal proceeding.

[(c) TREATY RIGHTS.—Nothing in the Agreement or this Act impairs the treaty fishing, hunting, pasturing, or gathering rights of the Tribe except to the extent expressly provided in the Agreement or this Act.

[(d) OTHER CLAIMS.—Nothing in the Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water, or any other treaty right, of any Indian tribe, band, or community other than the Tribe.

[(e) RECREATION ON DWORSHAK RESERVOIR.—

[(1) IN GENERAL.—In implementing the provisions of the Agreement and this Act relating to the use of water stored in Dworshak Reservoir for flow augmentation purposes, the heads of the Federal agencies involved in

the operational Memorandum of Agreement referred to in the Agreement shall implement a flow augmentation plan beneficial to fish and consistent with the Agreement.

[(2) CONTENTS OF PLAN.—The flow augmentation plan may include provisions beneficial to recreational uses of the reservoir through maintenance of the full level of the reservoir for prolonged periods during the summer months.

[(f) JURISDICTION.—

[(1) NO EFFECT ON SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.

[(2) CONSENT TO JURISDICTION.—The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.

[(3) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

[(A) enforce Federal environmental laws regarding the duties of the United States; or

[(B) conduct judicial review of Federal agency action.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Snake River Water Rights Act of 2004''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to resolve some of the largest outstanding issues with respect to the Snake River Basin Adjudication in Idaho in such a manner as to provide important benefits to the United States, the State of Idaho, the Nez Perce Tribe, the allottees, and citizens of the State;

(2) to achieve a fair, equitable, and final settlement of all claims of the Nez Perce Tribe, its members, and allottees and the United States on behalf of the Tribe, its members, and allottees to the water of the Snake River Basin within Idaho;

(3) to authorize, ratify, and confirm the Agreement among the parties submitted to the Snake River Basin Adjudication Court and provide all parties with the benefits of the Agreement;

(4) to direct—

(A) the Secretary, acting through the Bureau of Reclamation, the Bureau of Land Management, the Bureau of Indian Affairs, and other agencies; and

(B) the heads of other Federal agencies authorized to execute and perform actions necessary to carry out the Agreement;

to perform all of their obligations under the Agreement and this Act; and

(5) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the document titled ''Mediator's Term Sheet'' dated April 20, 2004, and submitted on that date to the SRBA Court in SRBA Consolidated Subcase 03–10022 and SRBA Consolidated Subcase 67–13701, with all appendices to the document.

(2) ALLOTTEE.—The term ''allottee'' means a person that holds a beneficial real property interest in an Indian allotment that is—

(A) located within the Nez Perce Reservation; and

(B) held in trust by the United States.

(3) CONSUMPTIVE USE RESERVED WATER RIGHT.—The term ''consumptive use reserved water right'' means the Federal reserved water right of 50,000 acre-feet per year, as described in the Agreement, to be decreed to the United States in trust for the Tribe and the allottees, with a priority date of 1855.

(4) PARTIES.—The term ''parties'' means the United States, the State, the Tribe, and any other entity or person that submitted, or joined in the submission of, the Agreement to the SRBA Court on April 20, 2004.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SNAKE RIVER BASIN.—The term ''Snake River Basin'' means the geographic area in the State described in paragraph 3 of the Commencement Order issued by the SRBA Court on November 19, 1987.

(7) SPRINGS OR FOUNTAINS WATER RIGHT.—The term ''springs or fountains water right'' means the Tribe's treaty right of access to and use of water from springs or fountains on Federal public land within the area ceded by the Tribe in the Treaty of June 9, 1863 (14 Stat. 647), as recognized under the Agreement.

(8) SRBA.—The term ''SRBA'' means the Snake River Basin Adjudication litigation before the SRBA Court styled as In re Snake River Basin Adjudication, Case No. 39576.

(9) SRBA COURT.—The term ''SRBA Court'' means the District Court of the Fifth Judicial District of the State of Idaho, In and For the County of Twin Falls in re Snake River Basin Adjudication.

(10) STATE.—The term ''State'' means the State of Idaho.

(11) TRIBE.—The term ''Tribe'' means the Nez Perce Tribe.

SEC. 4. APPROVAL, RATIFICATION, AND CONFIRMATION OF AGREEMENT.

(a) IN GENERAL.—Except to the extent that the Agreement conflicts with this Act, the Agreement is approved, ratified, and confirmed.

(b) EXECUTION AND PERFORMANCE.—The Secretary and the other heads of Federal agencies with obligations under the Agreement shall execute and perform all actions, consistent with this Act, that are necessary to carry out the Agreement.

SEC. 5. BUREAU OF RECLAMATION WATER USE.

(a) IN GENERAL.—As part of the overall implementation of the Agreement, the Secretary shall take such actions consistent with the Agreement, this Act, and water law of the State as are necessary to carry out the Snake River Flow Component of the Agreement.

(b) MITIGATION FOR CHANGE OF USE OF WATER.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $2,000,000 for a 1-time payment to local governments to mitigate for the change of use of water acquired by the Bureau of Reclamation under section III.C.6 of the Agreement.

(2) DISTRIBUTION OF FUNDS.—Funds made available under paragraph (1) shall be distributed by the Secretary to local governments in accordance with a plan provided to the Secretary by the State.

(3) PAYMENTS.—Payments by the Secretary shall be made on a pro rata basis as water rights are acquired by the Bureau of Reclamation.

SEC. 6. BUREAU OF LAND MANAGEMENT LAND TRANSFER.

(a) TRANSFER.—

(1) IN GENERAL.—The Secretary shall transfer land selected by the Tribe under paragraph (2) to the Bureau of Indian Affairs to be held in trust for the Tribe.

(2) LAND SELECTION.—The land transferred shall be selected by the Tribe from a list of parcels of land managed by the Bureau of Land Management that are available for transfer, as depicted on the map entitled ''North Idaho BLM Land Eligible for Selection by the Nez Perce Tribe'' dated May 2004, on file with the Director of the Bureau of Land Management, not including any parcel designated on the map as being on the Clearwater River or Lolo Creek.

(3) MAXIMUM VALUE.—The land selected by the Tribe for transfer shall be limited to a maximum value in total of not more than $7,000,000, as determined by an independent appraisal of fair market value prepared in accordance with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.

(b) EXISTING RIGHTS AND USES.—

(1) IN GENERAL.—On any land selected by the Tribe under subsection (a)(2), any use in existence on the date of transfer under subsection (a) under a lease or permit with the Bureau of Land Management, including grazing, shall remain in effect until the date of expiration of the lease or permit, unless the holder of the lease or permit requests an earlier termination of the lease or permit, in which case the Secretary shall grant the request.

(2) AVAILABILITY OF AMOUNTS.—Amounts that accrue to the United States under a lease or permit described in paragraph (1) from sales, bonuses, royalties, and rentals relating to any land transferred to the Tribe under this section shall be made available to the Tribe by the Secretary in the same manner as amounts received from other land held by the Secretary in trust for the Tribe.

(c) DATE OF TRANSFER.—No land shall be transferred to the Bureau of Indian Affairs to be held in trust for the Tribe under this section until the waivers and releases under section 10(a) take effect.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary $200,000 for 1-time payments to local governments to mitigate for the transfer of land by the Bureau of Land Management to the Tribe under section I.F of the Agreement.

(2) PAYMENTS.—Payments under paragraph (1) shall be made on a pro rata basis as parcels of land are acquired by the Tribe.

SEC. 7. WATER RIGHTS.

(a) HOLDING IN TRUST.—

(1) IN GENERAL.—The consumptive use reserved water right shall—

(A) be held in trust by the United States for the benefit of the Tribe and allottees as set forth in this section; and

(B) be subject to section 7 of the Act of February 8, 1887 (25 U.S.C. 381).

(2) SPRINGS OR FOUNTAINS WATER RIGHT.—The springs or fountains water right of the Tribe shall be held in trust by the United States for the benefit of the Tribe.

(3) ALLOTTEES.—Allottees shall be entitled to a just and equitable allocation of the consumptive use reserved water right for irrigation purposes.

(b) WATER CODE.—

(1) ENACTMENT OF WATER CODE.—Not later than 3 years after the date of enactment of this Act, the Tribe shall enact a water code, subject to any applicable provision of law, that—

(A) manages, regulates, and controls the consumptive use reserved water right so as to allocate water for irrigation, domestic, commercial, municipal, industrial, cultural, or other uses; and

(B) includes, subject to approval of the Secretary—

(i) a due process system for the consideration and determination of any request by an allottee, or any successor in interest to an allottee, for an allocation of such water for irrigation purposes on allotted land, including a process for an appeal and adjudication of denied or disputed distribution of water and for resolution of contested administrative decisions; and

(ii) a process to protect the interests of allottees when entering into any lease under subsection (e).

(2) SECRETARIAL APPROVAL.—Any provision of the water code and any amendments to the water code that affect the rights of the allottees shall be subject to approval by the Secretary, and no such provision or amendment shall be valid until approved by the Secretary.

(3) INTERIM ADMINISTRATION.—The Secretary shall administer the consumptive use reserved water right until such date as the water code described in paragraph (2) has been enacted by

the Tribe and the Secretary has approved the relevant portions of the water code.

(c) EXHAUSTION OF REMEDIES.—Before asserting any claim against the United States under section 7 of the Act of February 8, 1887 (25 U.S.C. 381) or other applicable law, a claimant shall exhaust remedies available under the Tribe's water code and Tribal law.

(d) PETITION TO THE SECRETARY.—Following exhaustion of remedies in accordance with subsection (c), a claimant may petition the Secretary for relief.

(e) SATISFACTION OF CLAIMS.—

(1) IN GENERAL.—The water rights and other benefits granted or confirmed by the Agreement and this Act shall be in full satisfaction of all claims for water rights and injuries to water rights of the allottees.

(2) SATISFACTION OF ENTITLEMENTS.—Any entitlement to water of any allottee under Federal law shall be satisfied out of the consumptive use reserved water right.

(3) COMPLETE SUBSTITUTION.—The water rights, resources, and other benefits provided by this Act are a complete substitution for any rights that may have been held by, or any claims that may have been asserted by, allottees within the exterior boundaries of the Reservation before the date of enactment of this Act.

(f) ABANDONMENT, FORFEITURE, OR NONUSE.—The consumptive use reserved water right and the springs or fountains water right shall not be subject to loss by abandonment, forfeiture, or nonuse.

(g) LEASE OF WATER.—

(1) IN GENERAL.—Subject to the water code, the Tribe, without further approval of the Secretary, may lease water to which the Tribe is entitled under the consumptive use reserved water right through any State water bank in the same manner and subject to the same rules and requirements that govern any other lessor of water to the water bank.

(2) FUNDS.—Any funds accruing to the Tribe from any lease under paragraph (1) shall be the property of the Tribe, and the United States shall have no trust obligation or other obligation to monitor, administer, or account for any consideration received by the Tribe under any such lease.

SEC. 8. TRIBAL FUNDS.

(a) DEFINITION OF FUND.—In this section, the term ''Fund'' means—

(1) the Nez Perce Tribe Water and Fisheries Fund established under subsection (b)(1); and

(2) the Nez Perce Tribe Domestic Water Supply Fund established under subsection (b)(2).

(b) ESTABLISHMENT.—There are established in the Treasury of the United States—

(1) a fund to be known as the ''Nez Perce Tribe Water and Fisheries Fund'', to be used to pay or reimburse costs incurred by the Tribe in acquiring land and water rights, restoring or improving fish habitat, or for fish production, agricultural development, cultural preservation, water resource development, or fisheries-related projects; and

(2) a fund to be known as the ''Nez Perce Domestic Water Supply Fund'', to be used to pay the costs for design and construction of water supply and sewer systems for tribal communities, including a water quality testing laboratory.

(c) MANAGEMENT OF THE FUNDS.—The Secretary shall manage the Funds, make investments from the Funds, and make amounts available from the Funds for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), this Act, and the Agreement.

(d) INVESTMENT OF THE FUNDS.—The Secretary shall invest amounts in the Funds in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161; 21 Stat. 70, chapter 41);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a; 52 Stat. 1037, chapter 648); and

(3) subsection (c).

(e) AVAILABILITY OF AMOUNTS FROM THE FUNDS.—Amounts made available under subsection (h) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Tribe may withdraw all or part of amounts in the Funds on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe spend any amounts withdrawn from the Funds in accordance with the purposes described in subsection (b).

(C) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Funds under the plan are used in accordance with this Act and the Agreement.

(D) LIABILITY.—If the Tribe exercises the right to withdraw amounts from the Funds, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts.

(2) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts made available under subsection (h) that the Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts of the Tribe remaining in the Funds will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Agreement.

(D) ANNUAL REPORT.—For each Fund, the Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA PAYMENTS.—No part of the principal of the Funds, or of the income accruing in the Funds, shall be distributed to any member of the Tribe on a per capita basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Nez Perce Tribe Water and Fisheries Fund—

(A) for fiscal year 2007, $7,830,000;

(B) for fiscal year 2008, $4,730,000;

(C) for fiscal year 2009, $7,380,000;

(D) for fiscal year 2010, $10,080,000;

(E) for fiscal year 2011, $11,630,000;

(F) for fiscal year 2012, $9,450,000; and

(G) for fiscal year 2013, $9,000,000; and

(2) to the Nez Perce Tribe Domestic Water Supply Fund—

(A) for fiscal year 2007, $5,100,000;

(B) for fiscal year 2008, $8,200,000;

(C) for fiscal year 2009, $5,550,000;

(D) for fiscal year 2010, $2,850,000; and

(E) for fiscal year 2011, $1,300,000.

SEC. 9. SALMON AND CLEARWATER RIVER BASINS HABITAT FUND.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Salmon and Clearwater River Basins Habitat Fund'' (referred to in this section as the ''Fund''), to be administered by the Secretary.

(2) ACCOUNTS.—There is established within the Fund—

(A) an account to be known as the ''Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account'', which shall be administered by the Secretary for use by the Tribe subject to the same provisions for management, investment, and expenditure as the funds established by section 8; and

(B) an account to be known as the ''Idaho Salmon and Clearwater River Basins Habitat Account'', which shall be administered by the Secretary and provided to the State as provided in the Agreement and this Act.

(b) USE OF THE FUND.—

(1) IN GENERAL.—The Fund shall be used to supplement amounts made available under any other law for habitat protection and restoration in the Salmon and Clearwater River Basins in Idaho, including projects and programs intended to protect and restore listed fish and their habitat in those basins, as specified in the Agreement and this Act.

(2) RELEASE OF FUNDS.—The Secretary shall release funds from the Idaho Salmon and Clearwater River Basins Habitat Account in accordance with section 6(d)(2) of the Endangered Species Act (16 U.S.C. 1535(d)(2)).

(3) NO ALLOCATION REQUIREMENT.—The use of the Fund shall not be subject to the allocation procedures under section 6(d)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(d)(1)).

(c) AVAILABILITY OF AMOUNTS IN THE FUND.—Amounts made available under subsection (d) shall be available for expenditure or withdrawal only after the waivers and releases under section 10(a) take effect.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Nez Perce Tribe Salmon and Clearwater River Basins Habitat Account, $2,533,334 for each of fiscal years 2007 through 2011; and

(2) to the Idaho Salmon and Clearwater River Basins Habitat Account, $5,066,666 for each of fiscal years 2007 through 2011.

SEC. 10. TRIBAL WAIVER AND RELEASE OF CLAIMS.

(a) WAIVER AND RELEASE OF CLAIMS IN GENERAL.—

(1) CLAIMS TO WATER RIGHTS; CLAIMS FOR INJURIES TO WATER RIGHTS OR TREATY RIGHTS.—Except as otherwise provided in this Act, the United States on behalf of the Tribe and the allottees, and the Tribe, waive and release—

(A) all claims to water rights within the Snake River Basin (as defined in section 3);

(B) all claims for injuries to such water rights; and

(C) all claims for injuries to the treaty rights of the Tribe to the extent that such injuries result or resulted from flow modifications or reductions in the quantity of water available that accrued at any time up to and including the effective date of the settlement, and any continuation thereafter of any such claims, against the State, any agency or political subdivision of the State, or any person, entity, corporation, municipal corporation, or quasi-municipal corporation.

(2) CLAIMS BASED ON REDUCED WATER QUALITY OR REDUCTIONS IN WATER QUANTITY.—The United States on behalf of the Tribe and the allottees, and the Tribe, waive and release any claim, under any treaty theory, based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin against any party to the Agreement.

(3) NO FUTURE ASSERTION OF CLAIMS.—No water right claim that the Tribe or the allottees have asserted or may in the future assert outside the Snake River Basin shall require water to be supplied from the Snake River Basin to satisfy the claim.

(4) EFFECT OF WAIVERS AND RELEASES.—The waivers and releases by the United States and the Tribe under this subsection—

(A) shall be permanent and enforceable; and

(B) shall survive any subsequent termination of any component of the settlement described in the Agreement or this Act.

(5) EFFECTIVE DATE.—The waivers and releases under this subsection shall take effect on the date on which the Secretary causes to be

published in the Federal Register a statement of findings that the actions set forth in section IV.L of the Agreement—

(A) have been completed, including issuance of a judgment and decree by the SRBA court from which no further appeal may be taken; and

(B) have been determined by the United States on behalf of the Tribe and the allottees, the Tribe, and the State of Idaho to be consistent in all material aspects with the Agreement.

(b) WAIVER AND RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the appropriation of all funds authorized under sections 8(h) and 9(d)(1), the Tribe shall execute a waiver and release of the United States from—

(A) all claims for water rights within the Snake River Basin, injuries to such water rights, or breach of trust claims for failure to protect, acquire, or develop such water rights that accrued at any time up to and including the effective date determined under paragraph (2);

(B) all claims for injuries to the Tribe's treaty fishing rights, to the extent that such injuries result or resulted from reductions in the quantity of water available in the Snake River Basin;

(C) all claims of breach of trust for failure to protect Nez Perce springs or fountains treaty rights reserved in article VIII of the Treaty of June 9, 1863 (14 Stat. 651); and

(D) all claims of breach of trust arising out of the negotiation of or resulting from the adoption of the Agreement.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The waiver and release contained in this subsection shall take effect on the date on which the amounts authorized under sections 8(h) and 9(d)(1) are appropriated.

(B) PERIODS OF LIMITATION; EQUITABLE CLAIMS.—

(i) IN GENERAL.—All periods of limitation and time-based equitable defenses applicable to the claims set forth in paragraph (1) are tolled for the period between the date of enactment of this Act until the earlier of—

(I) the date on which the amounts authorized under sections 8(h) and 9(d)(1) are appropriated; or

(II) October 1, 2017.

(ii) EFFECT OF SUBPARAGRAPH.—This subparagraph neither revives any claim nor tolls any period of limitation or time-based equitable defense that may have expired before the date of enactment of this Act.

(3) DEFENSE.—The making of the amounts of appropriations authorized under sections 8(h) and 9(d)(1) shall constitute a complete defense to any claim pending in any court of the United States on the date on which the appropriations are made.

(c) RETENTION OF RIGHTS.—

(1) IN GENERAL.—The Tribe shall retain all rights not specifically waived or released in the Agreement or this Act.

(2) DWORSHAK PROJECT.—Nothing in the Agreement or this Act constitutes a waiver by the Tribe of any claim against the United States resulting from the construction and operation of the Dworshak Project (Project PWI 05090), other than those specified in subparagraphs (A) and (B) of subsection (b)(1).

(3) FUTURE ACQUISITION OF WATER RIGHTS.—Nothing in the Agreement or this Act precludes the Tribe or allottees, or the United States as trustee for the Tribe or allottees, from purchasing or otherwise acquiring water rights in the future to the same extent as any other entity in the State.

SEC. 11. MISCELLANEOUS.

(a) GENERAL DISCLAIMER.—The parties expressly reserve all rights not specifically granted, recognized, or relinquished by the settlement described in the Agreement or this Act.

(b) DISCLAIMER REGARDING OTHER AGREEMENTS AND PRECEDENT.—

(1) IN GENERAL.—Subject to section 9(b)(3), nothing in this Act amends, supersedes, or preempts any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River Basin.

(2) NO ESTABLISHMENT OF STANDARD.—Nothing in this Act—

(A) establishes any standard for the quantification of Federal reserved water rights or any other Indian water claims of any other Indian tribes in any other judicial or administrative proceeding; or

(B) limits the rights of the parties to litigate any issue not resolved by the Agreement or this Act.

(3) NO ADMISSION AGAINST INTEREST.—Nothing in this Act constitutes an admission against interest against any party in any legal proceeding.

(c) TREATY RIGHTS.—Nothing in the Agreement or this Act impairs the treaty fishing, hunting, pasturing, or gathering rights of the Tribe except to the extent expressly provided in the Agreement or this Act.

(d) OTHER CLAIMS.—Nothing in the Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water, or any other treaty right, of any Indian tribe, band, or community other than the Tribe.

(e) RECREATION ON DWORSHAK RESERVOIR.—

(1) IN GENERAL.—In implementing the provisions of the Agreement and this Act relating to the use of water stored in Dworshak Reservoir for flow augmentation purposes, the heads of the Federal agencies involved in the operational Memorandum of Agreement referred to in the Agreement shall implement a flow augmentation plan beneficial to fish and consistent with the Agreement.

(2) CONTENTS OF PLAN.—The flow augmentation plan may include provisions beneficial to recreational uses of the reservoir through maintenance of the full level of the reservoir for prolonged periods during the summer months.

(f) JURISDICTION.—

(1) NO EFFECT ON SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or Tribal court.

(2) CONSENT TO JURISDICTION.—The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.

(3) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

(A) enforce Federal environmental laws regarding the duties of the United States; or

(B) conduct judicial review of Federal agency action.

MEANING OF SECTION 4

Ms. CANTWELL. Mr. President, I say to Senator CAMPBELL, as chairman of the Indian Affairs Committee upon which I serve, I appreciate his leadership in helping this important bill become law. I support S. 2605 and believe it codifies a fair and equitable settlement of Snake River Basin water rights in Idaho. However, I am concerned that the bill currently pending before the Senate may have inadvertently altered the rights of my constituents and obligations of the downstream States of Washington and Oregon in the application and implementation of Federal environmental laws.

Therefore, I have a few questions to ask regarding the effect of section 4 of S. 2605 and the agreement, as expressed in the Mediator's Term Sheet, that S. 2605 would approve. Specifically, I am concerned about (1) whether some inference might be drawn from the language in section 4(a) of the act that, by approving, ratifying and confirming the agreement, Congress has in effect altered the obligation of Federal agencies to consult under section 7 of the Endangered Species Act; (2) whether the act might be interpreted to require that Federal agencies implement the agreement without taking into consideration the interests of other affected States; and (3) whether the act or the agreement might be construed to alter any obligations that the parties might have under the Clean Water Act, particularly in relation to the protection of federally approved State water quality standards of downstream States.

I noticed that these three specific issues were not expressly addressed in the report of the Committee on Indian Affairs that has been filed and accompanies the substitute amendment.

Mr. CAMPBELL. These three issues were not specifically addressed in the report issued by the committee, although the part of the report that discusses the meaning of section 4(a) of the substitute amendment does make the point, and fairly clearly I think, that there is no intent to alter or amend Federal environmental laws like the Endangered Species Act and the Clean Water Act or to somehow limit the rights of persons or organizations to pursue any remedies that are otherwise available to them under such laws. The three precise issues you mention were not deliberately omitted from discussion in the report—to the contrary, they were not discussed in the report simply because those specific issues, as you have articulated them, were not aired during or after the hearing held on this legislation and, in fact, arose only after the amendment in the nature of a substitute was reported to the Senate on October 7, 2004.

Ms. CANTWELL. As the principal sponsor and architect of the substitute amendment approved by the Senate Committee on Indian Affairs, what was the intent about the meaning of the substitute amendment and the agreement it would approve with respect to those three issues?

Mr. CAMPBELL. My intent with respect to all three of the issues that the Senator has mentioned is consistent with my intent regarding the meaning of section 4 of the substitute amendment and the agreement itself—that is, neither the substitute amendment nor the agreement should be interpreted to somehow restrict the rights of any State, person or organization to pursue remedies otherwise available under Federal environmental laws such as the Clean Water Act and the Endangered Species Act.

I would point out that neither the substitute amendment nor the agreement should be read to create, enlarge or limit any obligation of Federal agencies to consult under section 7 of the Endangered Species Act. Also, the

intent behind the substitute amendment is that Federal agencies implement the terms of the agreement and any applicable Federal laws with due consideration of both the interests of the parties and those of other affected States so that no interests are prejudiced. Finally, neither the substitute amendment nor the agreement should be interpreted to create or alter any obligations of the parties under the Clean Water Act with respect to the protection of federally approved State water quality standards of downstream States. However, with that I do not mean to imply or suggest that any such obligations exist or do not exist.

Ms. CANTWELL. I thank the Senator for clarifying these important matters.

Mr. CAMPBELL. I thank the Senator for her inquiry.

Mr. CRAPO. Speaking as the subcommittee chairman with jurisdiction over the Endangered Species Act and the Clean Water Act, I concur in the clarifications expressed by my colleagues.

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

The bill (S. 2605), as amended, was read the third time and passed.

INDIAN TRIBAL DEVELOPMENT CORPORATION FEASIBILITY ACT OF 2004

The Senate proceeded to consider the bill (S. 519) to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 519

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Native American Capital Formation and Economic Development Act of 2003''.

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

[Sec. 1. Short title; table of contents.
[Sec. 2. Findings.
[Sec. 3. Purposes.
[Sec. 4. Definitions.
[TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION
[Sec. 101. Establishment of the Corporation.
[Sec. 102. Authorized assistance and service functions.
[Sec. 103. Native American lending services grant.
[Sec. 104. Audits.
[Sec. 105. Annual housing and economic development reports.
[Sec. 106. Advisory Council.
[TITLE II—CAPITALIZATION OF CORPORATION
[Sec. 201. Capitalization of the Corporation.
[TITLE III—REGULATION, EXAMINATION, AND REPORTS
[Sec. 301. Regulation, examination, and reports.
[Sec. 302. Authority of the Secretary of Housing and Urban Development.
[TITLE IV—FORMATION OF NEW CORPORATION
[Sec. 401. Formation of new corporation.
[Sec. 402. Adoption and approval of merger plan.
[Sec. 403. Consummation of merger.
[Sec. 404. Transition.
[Sec. 405. Effect of merger.
[TITLE V—OTHER NATIVE AMERICAN FUNDS
[Sec. 501. Native American Economies Diagnostic Studies Fund.
[Sec. 502. Native American Economic Incubation Center Fund.
[TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS
[Sec. 601. Native American financial institutions.
[Sec. 602. Corporation.
[Sec. 603. Other Native American funds.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) there is a special legal and political relationship between the United States and the Indian tribes, as grounded in treaties, the Constitution, Federal statutes and court decisions, executive orders, and course of dealing;

[(2) despite the availability of abundant natural resources on Indian land and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States;

[(3) the economic success and material well-being of Native Americans depends on the combined efforts and resources of the United States, Indian tribal governments, the private sector, and individuals;

[(4) the poor performance of moribund Indian economies is due in part to the near-complete absence of private capital and private capital institutions; and

[(5) the goals of economic self-sufficiency and political self-determination for Native Americans can best be achieved by making available the resources and discipline of the private market, adequate capital, and technical expertise.

[SEC. 3. PURPOSES.

[The purposes of this Act are—

[(1) to establish an entity dedicated to capital development and economic growth policies in Native American communities;

[(2) to provide the necessary resources of the United States, Native Americans, and the private sector on endemic problems such as fractionated and unproductive Indian land;

[(3) to provide a center for economic development policy and analysis with particular emphasis on diagnosing the systemic weaknesses with, and inhibitors to greater levels of investment in, Native American economies;

[(4) to establish a Native-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans; and

[(5) to improve the material standard of living of Native Americans.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) ALASKA NATIVE.—The term ''Alaska Native'' has the meaning given the term ''Native'' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

[(2) BOARD.—The term ''Board'' means the Board of Directors of the Corporation.

[(3) CAPITAL DISTRIBUTION.—The term ''capital distribution'' has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

[(4) CHAIRPERSON.—The term ''Chairperson'' means the chairperson of the Board.

[(5) CORPORATION.—The term ''Corporation'' means the Native American Capital Development Corporation established by section 101(a)(1)(A).

[(6) COUNCIL.—The term ''Council'' means the Advisory Council established under section 106(a).

[(7) DESIGNATED MERGER DATE.—The term ''designated merger date'' means the specific calendar date and time of day designated by the Board under this Act.

[(8) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term ''Department of Hawaiian Home Lands'' means the agency that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

[(9) FUND.—The term ''Fund'' means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703).

[(10) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(11) MERGER PLAN.—The term ''merger plan'' means the plan of merger adopted by the Board under this Act.

[(12) NATIVE AMERICAN.—The term ''Native American'' means—

[(A) a member of an Indian tribe; or

[(B) a Native Hawaiian.

[(13) NATIVE AMERICAN FINANCIAL INSTITUTION.—The term ''Native American financial institution'' means a person (other than an individual) that—

[(A) qualifies as a community development financial institution under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702);

[(B) satisfies—

[(i) requirements established by subtitle A of title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.); and

[(ii) requirements applicable to persons seeking assistance from the Fund;

[(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

[(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

[(14) NATIVE AMERICAN LENDER.—The term ''Native American lender'' means a Native American governing body, Native American housing authority, or other Native American financial institution that acts as a primary mortgage or economic development lender in a Native American community.

[(15) NATIVE HAWAIIAN.—The term ''Native Hawaiian'' has the meaning given the term in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

[(16) NEW CORPORATION.—The term ''new corporation'' means the corporation formed in accordance with title IV.

[(17) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

[(18) TOTAL CAPITAL.—The term ''total capital'' has the meaning given the term in section 1303 of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

[(19) TRANSITION PERIOD.—The term ''transition period'' means the period beginning on the date on which the merger plan is approved by the Secretary and ending on the designated merger date.

[TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT CORPORATION

[SEC. 101. ESTABLISHMENT OF THE CORPORATION.

[(a) ESTABLISHMENT; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

[(1) ESTABLISHMENT.—

[(A) IN GENERAL.—There is established and chartered a corporation, to be known as the ''Native American Capital Development Corporation''.

[(B) PERIOD OF TIME.—The Corporation shall be a congressionally chartered body corporate until the earlier of—

[(i) the designated merger date; or

[(ii) the date on which the charter is surrendered by the Corporation.

[(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Corporation charter is specifically and exclusively reserved to Congress.

[(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

[(A) BOARD.—The powers of the Corporation shall be vested in a Board of Directors, which Board shall determine the policies that govern the operations and management of the Corporation.

[(B) PRINCIPAL OFFICE; RESIDENCY.—

[(i) PRINCIPAL OFFICE.—The principal office of the Corporation shall be in the District of Columbia.

[(ii) VENUE.—For purposes of venue, the Corporation shall be considered to be a resident of the District of Columbia.

[(3) MEMBERSHIP.—

[(A) IN GENERAL.—

[(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, of which—

[(I) 3 members shall be appointed by the President; and

[(II) 6 members shall be elected by the class A stockholders, in accordance with the bylaws of the Corporation.

[(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 201(b), the Board shall consist of 13 members, of which—

[(I) 9 members shall be appointed and elected in accordance with clause (i); and

[(II) 4 members shall be elected by the class B stockholders, in accordance with the bylaws of the Corporation.

[(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

[(i) Of the 3 members appointed by the President—

[(I) 1 member shall be appointed for a 2-year term;

[(II) 1 member shall be appointed for a 3-year term; and

[(III) 1 member shall be appointed for a 4-year term;

as designated by the President at the time of the appointments.

[(ii) Of the 6 members elected by the class A stockholders—

[(I) 2 members shall each be elected for a 2-year term;

[(II) 2 members shall each be elected for a 3-year term; and

[(III) 2 members shall each be elected for a 4-year term.

[(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

[(I) 1 member shall be elected for a 2-year term;

[(II) 1 member shall be elected for a 3-year term; and

[(III) 2 members shall each be elected for a 4-year term.

[(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

[(i) Native American housing and economic development matters.

[(ii) Financing in Native American communities.

[(iii) Native American governing bodies, legal infrastructure, and judicial systems.

[(iv) Restricted and trust land issues, economic development, and small consumer loans.

[(D) MEMBERS OF INDIAN TRIBES.—Not less than 2 of the members appointed by the President shall be members of different, federally-recognized Indian tribes enrolled in accordance with the applicable requirements of the Indian tribes.

[(E) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

[(F) VACANCIES.—

[(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

[(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

[(G) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

[(b) POWERS OF THE CORPORATION.—The Corporation—

[(1) shall adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

[(A) the business of the Corporation shall be conducted;

[(B) the elected members of the Board shall be elected;

[(C) the stock of the Corporation shall be issued, held, and disposed of;

[(D) the property of the Corporation shall be disposed of; and

[(E) the powers and privileges granted to the Corporation by this Act and other law shall be exercised;

[(2) may make and execute contracts, agreements, and commitments, including entering into a cooperative agreement with the Secretary;

[(3) may prescribe and impose fees and charges for services provided by the Corporation;

[(4) may, if a settlement, adjustment, compromise, release, or waiver of a claim, demand, or right of, by, or against the Corporation, is not adverse to the interests of the United States—

[(A) settle, adjust, and compromise on the claim, demand, or right; and

[(B) with or without consideration or benefit to the Corporation, release or waive, in whole or in part, in advance or otherwise, the claim, demand, or right;

[(5) may sue and be sued, complain and defend, in any Federal, State, tribal, or other court;

[(6) may acquire, take, hold, and own, manage, and dispose of any property;

[(7) may—

[(A) determine the necessary expenditures of the Corporation and the manner in which those expenditures shall be incurred, allowed, and paid; and

[(B) appoint, employ, and fix and provide for the compensation and benefits of such officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

[(8) may incorporate a new corporation under State, District of Columbia, or tribal law, as provided in this Act;

[(9) may adopt a plan of merger, as provided in this Act;

[(10) may consummate the merger of the Corporation into the new corporation, as provided in this Act; and

[(11) may have succession until the designated merger date or any earlier date on which the Corporation surrenders the Federal charter of the Corporation.

[(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

[(1) INVESTMENT OF FUNDS.—Funds of the Corporation that are not required to meet current operating expenses shall be invested in—

[(A) obligations of, or obligations guaranteed by, the United States (or any agency of the United States); or

[(B) in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

[(2) DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may—

[(A) be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation; and

[(B) act as such a depositary, custodian, or agent.

[(d) ACTIONS BY AND AGAINST THE CORPORATION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

[(1) the Corporation shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

[(2) any civil action to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

[(3) in any case in which all remedies have been exhausted in accordance with the applicable ordinances of an Indian tribe, in any civil or other action, case, or controversy in a tribal court, State court, or in any court other than a district court of the United States, to which the Corporation is a party, may at any time before the commencement of the civil action be removed by the Corporation, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

[(A) to the district court of the United States for the district and division in which the action is pending; or

[(B) if there is no such district court, to the United States District Court for the District of Columbia.

[SEC. 102. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

[The Corporation may—

[(1) assist in the planning, establishment, and organization of Native American financial institutions;

[(2) develop and provide financial expertise and technical assistance to Native American financial institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

[(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American land, including issues relating to—

[(A) trust land;

[(B) discrimination;

[(C) high operating costs; and

[(D) inapplicability of standard underwriting criteria;

[(4) provide mortgage underwriting assistance (but not in originating loans) under contract to Native American financial institutions;

[(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American financial institutions and other lenders in Native American communities;

[(6) obtain capital investments in the Corporation from Indian tribes, Native American organizations, and other entities;

[(7) act as an information clearinghouse by providing information on financial practices to Native American financial institutions;

[(8) monitor and report to Congress on the performance of Native American financial institutions in meeting the economic development and housing credit needs of Native Americans; and

[(9) provide any of the services described in this section—

[(A) directly; or

[(B) under a contract authorizing another national or regional Native American financial services provider to assist the Corporation in carrying out the purposes of this Act.

[SEC. 103. NATIVE AMERICAN LENDING SERVICES GRANT.

[(a) INITIAL GRANT PAYMENT.—If the Secretary and the Corporation enter into a cooperative agreement for the Corporation to provide technical assistance and other services to Native American financial institutions, the agreement shall, to the extent that funds are available as provided in this Act, provide that the initial grant payment, anticipated to be $5,000,000, shall be made at the time at which all members of the initial Board have been appointed under this Act.

[(b) PAYMENT OF GRANT BALANCE.—The payment of the remainder of the grant shall be made to the Corporation not later than 1 year after the date on which the initial grant payment is made under subsection (a).

[SEC. 104. AUDITS.

[(a) INDEPENDENT AUDITS.—

[(1) IN GENERAL.—The Corporation shall have an annual independent audit made of the financial statements of the Corporation by an independent public accountant in accordance with generally accepted auditing standards.

[(2) DETERMINATIONS.—In conducting an audit under this subsection, the independent public accountant shall determine and submit to the Secretary a report on whether the financial statements of the Corporation—

[(A) are presented fairly in accordance with generally accepted accounting principles; and

[(B) to the extent determined necessary by the Secretary, comply with any disclosure requirements imposed under section 301.

[(b) GAO AUDITS.—

[(1) IN GENERAL.—Beginning on the date that is 2 years after the date of commencement of operation of the Corporation, unless an earlier date is required by any other law, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

[(2) ACCESS.—To carry out this subsection, the representatives of the General Accounting Office shall—

[(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation that are necessary to facilitate the audit;

[(B) be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians; and

[(C) have access, on request to the Corporation or any auditor for an audit of the Corporation under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

[(3) REPORTS.—The Comptroller General of the United States shall submit to Congress a report on each audit conducted under this subsection.

[(4) REIMBURSEMENT.—The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

[SEC. 105. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

[Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the activities of the Corporation relating to economic development.

[SEC. 106. ADVISORY COUNCIL.

[(a) ESTABLISHMENT.—The Board shall establish an Advisory Council in accordance with this section.

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Council shall consist of 13 members, who shall be appointed by the Board, including—

[(A) 1 representative from each of the 12 districts established by the Bureau of Indian Affairs; and

[(B) 1 representative from the State of Hawaii.

[(2) QUALIFICATIONS.—Of the members of the Council—

[(A) not less than 6 members shall have expertise in financial matters; and

[(B) not less than 9 members shall be Native Americans.

[(3) TERMS.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

[(A) Each of 4 members shall be appointed for a 2-year term.

[(B) Each of 4 members shall be appointed for a 3-year term.

[(C) Each of 5 members shall be appointed for a 4-year term.

[(c) DUTIES.—The Council shall—

[(1) advise the Board on all policy matters of the Corporation; and

[(2) through the regional representation of members of the Council, provide information to the Board from all sectors of the Native American community.

[TITLE II—CAPITALIZATION OF CORPORATION

[SEC. 201. CAPITALIZATION OF THE CORPORATION.

[(a) CLASS A STOCK.—The class A stock of the Corporation shall—

[(1) be issued only to Indian tribes and the Department of Hawaiian Home Lands;

[(2) be allocated—

[(A) with respect to Indian tribes, on the basis of Indian tribe population, as determined by the Secretary in consultation with the Secretary of the Interior, in such manner as to issue 1 share for each member of an Indian tribe; and

[(B) with respect to the Department of Hawaiian Home Lands, on the basis of the number of current leases at the time of allocation;

[(3) have such par value and other characteristics as the Corporation shall provide;

[(4) be issued in such a manner as to ensure that voting rights may be vested only on purchase of those rights from the Corporation by an Indian tribe or the Department of Hawaiian Home Lands, with each share being entitled to 1 vote; and

[(5) be nontransferable.

[(b) CLASS B STOCK.—

[(1) IN GENERAL.—The Corporation may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

[(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

[(A) be available for purchase by investors;

[(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

[(C) have such par value and other characteristics as the Corporation shall provide;

[(D) be vested with voting rights, with each share being entitled to 1 vote; and

[(E) be transferable only on the books of the Corporation.

[(c) CHARGES AND FEES; EARNINGS.—

[(1) CHARGES AND FEES.—The Corporation may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

[(A) all costs and expenses of the operations of the Corporation should be within the income of the Corporation derived from such operations; and

[(B) those operations would be fully self-supporting.

[(2) EARNINGS.—

[(A) IN GENERAL.—All earnings from the operations of the Corporation shall be annually transferred to the general surplus account of the Corporation.

[(B) TRANSFER OF GENERAL SURPLUS FUNDS.—At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Corporation.

[(d) CAPITAL DISTRIBUTIONS.—

[(1) DISTRIBUTIONS.—

[(A) IN GENERAL.—Except as provided in paragraph (2), the Corporation may make such capital distributions as may be declared by the Board.

[(B) CHARGING OF DISTRIBUTIONS.—All capital distributions under subparagraph (A) shall be charged against the general surplus account of the Corporation.

[(2) RESTRICTION.—The Corporation may not make any capital distribution that would decrease the total capital of the Corporation to an amount less than the capital level for the Corporation established under section 301, without prior written approval of the distribution by the Secretary.

[TITLE III—REGULATION, EXAMINATION, AND REPORTS

[SEC. 301. REGULATION, EXAMINATION, AND REPORTS.

[(a) IN GENERAL.—The Corporation shall be subject to the regulatory authority of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Corporation.

[(b) DUTY OF SECRETARY.—The Secretary shall ensure that the Corporation is adequately capitalized and operating safely as a congressionally chartered body corporate.

[(c) REPORTS TO SECRETARY.—

[(1) ANNUAL REPORTS.—On such date as the Secretary shall require, but not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall submit to the Secretary a report in such form and containing such information with respect to the financial condition and operations of the Corporation as the Secretary shall require.

[(2) CONTENTS OF REPORTS.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Corporation designated by the Board to make the declaration, that the report is true and correct to the best of the knowledge and belief of that officer.

[SEC. 302. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

[The Secretary shall—

[(1) have general regulatory power over the Corporation; and

[(2) promulgate such rules and regulations applicable to the Corporation as the Secretary determines to be appropriate to ensure that the purposes specified in section 3 are accomplished.

[TITLE IV—FORMATION OF NEW CORPORATION

[SEC. 401. FORMATION OF NEW CORPORATION.

[(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 3 beyond the terms of the charter of the Corporation, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

[(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have such corporate powers and attributes permitted under the laws of the jurisdiction of in which the new corporation is incorporated as the Board determines to be appropriate.

[(c) USE OF NAME PROHIBITED.—The new corporation may not use in any manner the names ''Native American Capital Development Corporation'' or ''NACDCO'', or any variation of those names.

[SEC. 402. ADOPTION AND APPROVAL OF MERGER PLAN.

[(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, after consultation with the Indian tribes that are stockholders of class A stock referred to in section 201(a), the Board shall prepare, adopt, and submit to the Secretary for approval, a plan for merging the Corporation into the new corporation.

[(b) DESIGNATED MERGER DATE.—

[(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which, and time of day at which, the merger of the Corporation into the new corporation shall take effect.

[(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

[(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

[(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date under paragraph (3) that is later than 11 years after the date of enactment of this Act if the Board submits to the Secretary a report—

[(A) stating that an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

[(B) explaining why an orderly merger of the Corporation into the new corporation is not feasible before the latest date designated by the Board;

[(C) describing the steps that have been taken to consummate an orderly merger of the Corporation into the new corporation not later than 11 years after the date of enactment of this Act; and

[(D) describing the steps that will be taken to consummate an orderly and timely merger of the Corporation into the new corporation.

[(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

[(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Corporation into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

[(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by the Secretary.

[(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If the Secretary disapproves the merger plan or any amended merger plan—

[(1) the Secretary shall—

[(A) notify the Corporation of the disapproval; and

[(B) indicate the reasons for the disapproval; and

[(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Corporation shall submit to the Secretary for approval, an amended merger plan that responds to the reasons for the disapproval indicated in that notification.

[(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Corporation shall not be required to accomplish the merger of the Corporation into the new corporation.

[SEC. 403. CONSUMMATION OF MERGER.

[The Board shall ensure that the merger of the Corporation into the new corporation is accomplished in accordance with—

[(1) a merger plan approved by the Secretary under section 402; and

[(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

[SEC. 404. TRANSITION.

[Except as provided in this section, the Corporation shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

[SEC. 405. EFFECT OF MERGER.

[(a) TRANSFER OF ASSETS AND LIABILITIES.—On the designated merger date—

[(1) all real, personal, and mixed property, all debts due on any account, and any other interest, of or belonging to or due to the Corporation, shall be transferred to and vested in the new corporation without further act or deed; and

[(2) no title to any real, personal, or mixed property shall be impaired in any way by reason of the merger.

[(b) TERMINATION OF THE CORPORATION AND FEDERAL CHARTER.—On the designated merger date—

[(1) the surviving corporation of the merger shall be the new corporation;

[(2) the Federal charter of the Corporation shall terminate; and

[(3) the separate existence of the Corporation shall terminate.

[(c) REFERENCES TO THE CORPORATION IN LAW.—After the designated merger date, any reference to the Corporation in any law or regulation shall be deemed to refer to the new corporation.

[(d) SAVINGS CLAUSE.—

[(1) PROCEEDINGS.—The merger of the Corporation into the new corporation shall not abate any proceeding commenced by or against the Corporation before the designated merger date, except that the new corporation shall be substituted for the Corporation as a party to any such proceeding as of the designated merger date.

[(2) CONTRACTS AND AGREEMENTS.—All contracts and agreements to which the Corporation is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Corporation as a party to those contracts and agreements as of the designated merger date.

[TITLE V—OTHER NATIVE AMERICAN FUNDS

[SEC. 501. NATIVE AMERICAN ECONOMIES DIAGNOSTIC STUDIES FUND.

[(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the ''Native American Economies Diagnostic Studies Fund'' (referred to in this section as the ''Diagnostic Fund''), to be used to strengthen Indian tribal economies by supporting investment policy reforms and technical assistance to eligible Indian tribes, consisting of—

[(1) any interest earned on investment of amounts in the Fund under subsection (d); and

[(2) such amounts as are appropriated to the Diagnostic Fund under subsection (f).

[(b) USE OF AMOUNTS FROM DIAGNOSTIC FUND.—

[(1) IN GENERAL.—The Corporation shall use amounts in the Diagnostic Fund to establish an interdisciplinary mechanism by which the Corporation and interested Indian tribes may jointly—

[(A) conduct diagnostic studies of Native economic conditions; and

[(B) provide recommendations for reforms in the policy, legal, regulatory, and investment areas and general economic environment of the interested Indian tribes.

[(2) CONDITIONS FOR STUDIES.—A diagnostic study conducted jointly by the Corporation and an Indian tribe under paragraph (1)—

[(A) shall be conducted in accordance with an agreement between the Corporation and the Indian tribe; and

[(B) at a minimum, shall identify inhibitors to greater levels of private sector investment and job creation with respect to the Indian tribe.

[(c) EXPENDITURES FROM DIAGNOSTIC FUND.—

[(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Diagnostic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

[(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Diagnostic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

[(d) INVESTMENT OF AMOUNTS.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Diagnostic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

[(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

[(A) on original issue at the issue price; or

[(B) by purchase of outstanding obligations at the market price.

[(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Diagnostic Fund may be sold by the Secretary of the Treasury at the market price.

[(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Diagnostic Fund shall be credited to and form a part of the Diagnostic Fund.

[(e) TRANSFERS OF AMOUNTS.—

[(1) IN GENERAL.—The amounts required to be transferred to the Diagnostic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Diagnostic Fund on the basis of estimates made by the Secretary of the Treasury.

[(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(f) TRANSFERS TO DIAGNOSTIC FUND.—There are appropriated to the Diagnostic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

[SEC. 502. NATIVE AMERICAN ECONOMIC INCUBATION CENTER FUND.

[(a) ESTABLISHMENT.—There is established within the Corporation a fund to be known as the ''Native American Economic Incubation Center Fund'' (referred to in this section as the ''Economic Fund''), consisting of—

[(1) any interest earned on investment of amounts in the Economic Fund under subsection (d); and

[(2) such amounts as are appropriated to the Economic Fund under subsection (f).

[(b) USE OF AMOUNTS FROM ECONOMIC FUND.—

[(1) IN GENERAL.—The Corporation shall use amounts in the Economic Fund to ensure that Federal development assistance and other resources dedicated to Native American economic development are provided only to Native American communities with demonstrated commitments to—

[(A) sound economic and political policies;

[(B) good governance; and

[(C) practices that promote increased levels of economic growth and job creation.

[(c) EXPENDITURES FROM ECONOMIC FUND.—

[(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Economic Fund to the Corporation such amounts as the Corporation determines are necessary to carry out this section.

[(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 12 percent of the amounts in the Economic Fund shall be available in each fiscal year to pay the administrative expenses necessary to carry out this section.

[(d) INVESTMENT OF AMOUNTS.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Economic Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

[(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

[(A) on original issue at the issue price; or

[(B) by purchase of outstanding obligations at the market price.

[(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Economic Fund may be sold by the Secretary of the Treasury at the market price.

[(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Economic Fund shall be credited to and form a part of the Economic Fund.

[(e) TRANSFERS OF AMOUNTS.—

[(1) IN GENERAL.—The amounts required to be transferred to the Economic Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Economic Fund on the basis of estimates made by the Secretary of the Treasury.

[(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(f) TRANSFERS TO ECONOMIC FUND.—There are appropriated to the Economic Fund, out of funds made available under section 603, such sums as are necessary to carry out this section.

[TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

[SEC. 601. NATIVE AMERICAN FINANCIAL INSTITUTIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to the Fund, without fiscal year limitation, such sums as are necessary to provide financial assistance to Native American financial institutions.

[(b) NO CONSIDERATION AS MATCHING FUNDS.—To the extent that a Native American financial institution receives funds under subsection (a), the funds shall not be considered to be matching funds required under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4707(e)).

[SEC. 602. CORPORATION.

[There are authorized to be appropriated to the Secretary, for transfer to the Corporation, such sums as are necessary to carry out activities of the Corporation.

[SEC. 603. OTHER NATIVE AMERICAN FUNDS.

[There are authorized to be appropriated such sums as are necessary to carry out sections 501 and 502.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Tribal Development Corporation Feasibility Study Act of 2004''.

SEC. 2. FEASIBILITY STUDY.

Section 4(b) of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4303(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

''(6) TRIBAL DEVELOPMENT CORPORATION FEASIBILITY STUDY.—

''(A) IN GENERAL.—The Secretary shall establish the Tribal Development Corporation Feasibility Study Group (referred to in this paragraph as the 'Group').

''(B) MEMBERS.—The Group shall be comprised of 12 members, as follows:

''(i) REPRESENTATIVES OF INDIAN TRIBES.—Five members of the Group shall be representatives of federally recognized Indian tribes.

''(ii) REPRESENTATIVES OF THE ALASKA NATIVE COMMUNITY.—Three members of the Group shall be representatives of the Alaska Native Community.

''(iii) REPRESENTATIVE OF THE NATIVE HAWAIIAN COMMUNITY.—One member of the Group shall be a representative of the Native Hawaiian Community.

''(iv) REPRESENTATIVE OF THE PRIVATE SECTOR.—Two members of the Group shall be representatives of nongovernmental economic activities carried out by private enterprises in the private sector.

''(v) FEDERAL OFFICIALS.—One member of the Group shall be a representative of the Department of the Treasury with demonstrated experience in international economic development and international financial institutions.

''(C) CHAIRPERSON.—The members of the Group shall select a Chairperson.

''(D) PERSONNEL AND SERVICES.—

''(i) IN GENERAL.—The Chairperson of the Group may appoint and terminate such personnel as are necessary to enable the Group to perform its duties.

''(ii) PROCUREMENT OF SERVICES.—The Chairperson may procure such services as are necessary to enable the Group to perform the duties of the Group.

''(E) STUDY.—

''(i) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Group shall—

''(I) conduct a study to determine the feasibility of establishing an Indian Tribal Development Corporation (referred to in this subparagraph as the 'Corporation'); and

''(II) submit to the Committee on Indian Affairs and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives a report that describes the results of the study and any recommendations of the Group for further legislative action.

''(ii) CONTENTS.—The report shall contain—

''(I) a discussion and determination of the financial feasibility of the Corporation, including whether the Corporation can be, over the long term, financially self-sustainable;

''(II) a discussion and determination of the probable economic impact of the Corporation, including a demonstration of the quantitative and qualitative economic impact on Native American communities;

''(III) a discussion and determination of the best alternatives in the structure, organization, and lending terms and conditions of the Corportation, including the most appropriate structure of capital contributions to best serve, and be acceptable to, Native interests;

''(IV) a discussion and determination of the basic terms and conditions under which funding would be provided to member Indian tribes;

''(V) a discussion of nonfinancial and advisory activities to be undertaken by the Corporation, including the use of diagnostic studies by the Corporation to—

''(aa) identify tribal, Federal, or State policies and legal and regulatory conditions and infrastructure deficiencies that impede investment, both private and public, needed to promote economic development;

''(bb) provide specific recommendations for remedial actions that can be undertaken by an Indian tribe to overcome such inhibitors of investment; and

''(cc) identify and establish the terms for preappraisal studies of investment opportunities, both private and public, that can be developed and promoted by an Indian tribe; and

''(VI) a discussion and determination of—

''(aa) the capital structure of the Corporation, including the optimal level of initial capital contributions by both Indian tribes and the United States Government; and

''(bb) the financial instruments that will be required by the Corporation to ensure its success.

''(F) TERMINATION OF STUDY GROUP.—The Group shall terminate 120 days after the date on which the Group submits the report under subparagraph (E).

''(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph—

''(i) $3,000,000 for fiscal year 2005; and

''(ii) $2,000,000 for fiscal year 2006.''.

Amend the title so as to read: ''A bill to determine the feasibility of establishing an Indian Tribal Development Corporation.''.

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

The bill (S. 519), as amended, was read the third time and passed.

The title was amended so as to read: ''A bill to determine the feasibility of establishing an Indian Tribal Development Corporation.''

TRIBAL PARITY ACT

The Senate proceeded to consider the bill (S. 1530) to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, which had been reported from the Committee on Indian Affairs with amendments, as follows:

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

S. 1530

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 ''Tribal Parity Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 891)), was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(A) are major components of the Pick-Sloan Missouri River Basin Program; and

(B) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, that border the Missouri River and suffered injury as a result of 1 or more Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of 1 or more Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes; and

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes.

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Public Law 105–132; 111 Stat. 2565) is amended by striking ''$39,300,000'' and inserting [''$176,398,012''] *''$186,822,140''*.

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104–223; 110 Stat. 3027) is amended by striking ''$27,500,000'' and inserting [''$100,244,040''] *''$105,917,853''*.

The amendments were agreed to.

The bill (S. 1530), as amended, was read the third time and passed, as follows:

S. 1530

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 ''Tribal Parity Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 891)), was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(A) are major components of the Pick-Sloan Missouri River Basin Program; and

(B) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, that border the Missouri River and suffered injury as a result of 1 or more Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of 1 or more Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes; and

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes.

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act (Public Law 105–132; 111 Stat. 2565) is amended by striking ''$39,300,000'' and inserting ''$186,822,140''.

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104–223; 110 Stat. 3027) is amended by striking ''$27,500,000'' and inserting ''$105,917,853''.

OGLALA SIOUX TRIBE ANGOSTURA IRRIGATION PROJECT MODERNIZATION AND DEVELOPMENT ACT

The Senate proceeded to consider the bill (S. 1996) to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1996

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 ''Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act''.

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.)—

[(A) to promote the economic development of the United States;

[(B) to provide for irrigation in regions north of Sioux City, Iowa;

[(C) to protect urban and rural areas from devastating floods of the Missouri River; and

[(D) for other purposes;

[(2) the Angostura Unit—

[(A) is a component of the Pick-Sloan program; and

[(B) provides for—

[(i) irrigation of 12,218 acres of productive farm land in the State; and

[(ii) substantial recreation and fish and wildlife benefits;

[(3) the Commissioner of Reclamation has determined that—

[(A) the national economic development benefits from irrigation at the Angostura Unit total approximately $3,410,000 annually; and

[(B) the national economic development benefits of recreation at Angostura Reservoir total approximately $7,100,000 annually;

[(4) the Angostura Unit impounds the Cheyenne River 20 miles upstream of the Pine Ridge Indian Reservation in the State;

[(5)(A) the Reservation experiences extremely high rates of unemployment and poverty; and

[(B) there is a need for economic development on the Reservation;

[(6) the national economic development benefits of the Angostura Unit do not extend to the Reservation;

[(7) the Angostura Unit may be associated with negative affects on water quality and riparian vegetation in the Cheyenne River on the Reservation;

[(8) rehabilitation of the irrigation facilities at the Angostura Unit would—

[(A) enhance the national economic development benefits of the Angostura Unit; and

[(B) result in improved water efficiency and environmental restoration benefits on the Reservation; and

[(9) the establishment of a trust fund for the Oglala Sioux Tribe would—

[(A) produce economic development benefits for the Reservation comparable to the benefits produced at the Angostura Unit; and

[(B) provide resources that are necessary for restoration of the Cheyenne River corridor on the Reservation.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) ANGOSTURA UNIT.—The term ''Angostura Unit'' means the irrigation unit of the Angostura irrigation project developed under the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

[(2) FUND.—The term ''Fund'' means the Oglala Sioux Tribal Development Trust Fund established by section 201(a).

[(3) PICK-SLOAN PROGRAM.—The term ''Pick-Sloan program'' means the Pick-Sloan Missouri River basin program approved under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.).

[(4) PLAN.—The term ''plan'' means the development plan developed by the Tribe under section 201(f).

[(5) RESERVATION.—The term ''Reservation'' means the Pine Ridge Indian Reservation in the State.

[(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[(7) STATE.—The term ''State'' means the State of South Dakota.

[(8) TRIBAL COUNCIL.—The term ''Tribal Council'' means the governing body of the Tribe.

[(9) TRIBE.—The term ''Tribe'' means the Oglala Sioux Tribe of South Dakota.

[TITLE I—REHABILITATION

[SEC. 101. REHABILITATION OF FACILITIES AT ANGOSTURA UNIT.

[The Secretary may carry out the rehabilitation and improvement of the facilities at the Angostura Project described in the report entitled ''Angostura Unit Contract Negotiation and Water Management Final Environmental Impact Statement'', dated August 2002.

[SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RESERVATION.

[The Secretary shall provide for—

[(1) to the maximum extent practicable, the delivery of water saved through the rehabilitation and improvement of the facilities of the Angostura Unit to the Pine Ridge Indian Reservation; and

[(2) the use of that water for purposes of environmental restoration on the Pine Ridge Indian Reservation.

[SEC. 103. EFFECT ON OTHER LAW.

[Nothing in this title affects—

[(1) any reserved water rights or other rights of the Tribe;

[(2) any service or program to which, in accordance with Federal law, the Tribe, or an individual member of the Tribe, is entitled; or

[(3) any water rights in existence on the date of enactment of this Act held by any person or entity.

[SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

[TITLE II—DEVELOPMENT

[SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.

[(a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Oglala Sioux Tribal Development Trust Fund'', consisting of any amounts deposited in the Fund under this title.

[(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit in the Fund—

[(1) such sums as the Secretary of the Treasury, in consultation with the Secretary, the Secretary of Health and Human Services, and the Tribal Council, are necessary to carry out development under this title; and

[(2) the amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if that amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

[(c) INVESTMENT OF TRUST FUND.—

[(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

[(2) ACQUISITION OF OBLIGATIONS.—Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

[(3) INTEREST.—The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

[(d) PAYMENT OF INTEREST TO TRIBE.—

[(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall transfer the aggregate amount of interest deposited into the Fund for the fiscal year to the Secretary for use in accordance with paragraph (3).

[(2) AVAILABILITY.—Each amount transferred under paragraph (1) shall be available without fiscal year limitation.

[(3) PAYMENTS TO TRIBE.—

[(A) IN GENERAL.—The Secretary shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

[(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

[(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

[(e) LIMITATION ON TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under subsection (b).

[(f) DEVELOPMENT PLAN.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

[(2) CONTENTS.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

[(A) economic development;

[(B) infrastructure development;

[(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

[(D) any combination of the activities described in subparagraphs (A) through (C).

[(3) PLAN REVIEW AND REVISION.—

[(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

[(B) UPDATING OF PLAN.—

[(i) IN GENERAL.—The Tribal Council may, on an annual basis, revise the plan to update the plan.

[(ii) REVIEW AND COMMENT.—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

[(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary and the Secretary of Health and Human Services.

[(4) AUDIT.—

[(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

[(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit under subparagraph (A) shall—

[(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

[(ii) include in the written findings of the audit the determination made under clause (i).

[(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

[(g) PROHIBITION OF PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Tribe on a per capita basis.

[SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

[No payment made to the Tribe under this title shall result in the reduction or denial of any service or program with respect to which, under Federal law—

[(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

[(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

[SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to pay the administrative expenses of the Fund.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oglala Sioux Tribe Angostura Irrigation Project Modernization and Development Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.)—

(A) to promote the economic development of the United States;

(B) to provide for irrigation in regions north of Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Angostura Unit—

(A) is a component of the Pick-Sloan program; and

(B) provides for—

(i) irrigation of 12,218 acres of productive farm land in South Dakota; and

(ii) substantial recreation and fish and wildlife benefits;

(3) the Commissioner of Reclamation has determined that—

(A) the national economic development benefits from irrigation at the Angostura Unit total approximately $3,410,000 annually; and

(B) the national economic development benefits of recreation at Angostura Reservoir total approximately $7,100,000 annually;

(4) the Angostura Unit impounds the Cheyenne River 20 miles upstream of the Pine Ridge Indian Reservation in South Dakota;

(5)(A) the Reservation experiences extremely high rates of unemployment and poverty; and

(B) there is a need for economic development on the Reservation;

(6) the national economic development benefits of the Angostura Unit do not extend to the Reservation;

(7) the Angostura Unit may be associated with negative affects on water quality and riparian vegetation in the Cheyenne River on the Reservation;

(8) modernization of the irrigation facilities at the Angostura Unit would—

(A) enhance the national economic development benefits of the Angostura Unit; and

(B) result in improved water efficiency and environmental restoration benefits on the Reservation; and

(9) the establishment of a trust fund for the Oglala Sioux Tribe would—

(A) produce economic development benefits for the Reservation comparable to the benefits produced at the Angostura Unit; and

(B) provide resources that are necessary for restoration of the Cheyenne River corridor on the Reservation.

SEC. 3. DEFINITIONS.

In this Act:

(1) ANGOSTURA UNIT.—The term ''Angostura Unit'' means the irrigation unit of the Angostura irrigation project developed under the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(2) FUND.—The term ''Fund'' means the Oglala Sioux Tribal Development Trust Fund established by section 201(a).

(3) PICK-SLOAN PROGRAM.—The term ''Pick-Sloan program'' means the Pick-Sloan Missouri River basin program approved under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.).

(4) PLAN.—The term ''plan'' means the development plan developed by the Tribe under section 201(f).

(5) RESERVATION.—The term ''Reservation'' means the Pine Ridge Indian Reservation in the State.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TRIBE.—The term ''Tribe'' means the Oglala Sioux Tribe of South Dakota.

(8) TRIBAL COUNCIL.—The term ''Tribal Council'' means the governing body of the Tribe.

TITLE I—MODERNIZATION

SEC. 101. MODERNIZATION OF FACILITIES AT ANGOSTURA UNIT.

(a) IN GENERAL.—The Secretary shall carry out the modernization and improvement of the facilities at the Angostura Unit as described in the Improved Efficiencies Alternative included in the report entitled ''Final Environmental Impact Statement, Angostura Unit Contract Negotiation and Water Management (August 2002)''.

(b) NONREIMBURSABILITY.—The cost of the modernization and improvement of the facilities at the Angostura Unit shall be carried out on a nonreimbursable basis.

SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RESERVATION.

The Secretary shall provide for the delivery of the water saved through the modernization and improvement of the facilities of the Angostura Unit to be used for fish and wildlife purposes and environmental restoration on the Reservation.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out section 101 $4,660,000, to remain available until expended.

TITLE II—DEVELOPMENT

SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.

(a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Oglala Sioux Tribal Development Trust Fund'', consisting of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit in the Fund—

(1) $92,500,000; and

(2) the amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if that amount had been invested in interest-bearing obligations of the United States on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) ELIGIBLE OBLIGATIONS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall invest the amounts deposited under subsection (b) and the interest earned on those amounts only in interest-bearing obligations of the United States issued directly to the Fund.

(3) INTEREST.—The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall transfer the aggregate amount of interest deposited into the Fund for the fiscal year to the Secretary for use in accordance with paragraph (3).

(2) AVAILABILITY.—Each amount transferred under paragraph (1) shall be available without fiscal year limitation.

(3) PAYMENTS TO TRIBE.—

(A) IN GENERAL.—The Secretary shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(e) LIMITATION ON TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under subsection (b).

(f) DEVELOPMENT PLAN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

(2) CONTENTS.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) UPDATING OF PLAN.—

(i) IN GENERAL.—The Tribal Council may, on an annual basis, revise the plan to update the plan.

(ii) REVIEW AND COMMENT.—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit under subparagraph (A) shall—

(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

(ii) include in the written findings of the audit the determination made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

(g) PROHIBITION OF PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Tribe on a per capita basis.

SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

No payment made to the Tribe under this title shall result in the reduction or denial of any service or program with respect to which, under Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. WATER RIGHTS.

Nothing in this Act—

(1)(A) affects any rights, benefits, privileges or claims (including water rights or claims to water rights) of the Tribe, whether located within or without the external boundaries of the Reservation, based on treaty, Executive order, agreement, Act of Congress, aboriginal title, the Winters doctrine (Winters v. United States, 207 U.S. 564 (1908)), or otherwise; or

(B) validates or invalidates any assertion of the existence, nonexistence or extinguishment of any water rights, or claims to water rights, held by the Tribe or any other Indian tribe or individual Indian under Federal or State law; or

(2) affects any other water rights in existence on the date of enactment of this Act held by any person or entity.

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

The bill (S. 1996), as amended, was read the third time and passed.

SPOKANE TRIBE OF INDIANS OF THE SPOKANE RESERVATION GRAND COULEE DAM EQUITABLE COMPENSATION SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 1438) to provide for equitable compensation of the Spokane Tribe of Indians of the Spokane Reservation in settlement of claims of the Tribe concerning the contribution of the Tribe to the production of hydropower by the Grand Coulee Dam, and for other purposes, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1438

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 ''Spokane Tribe of Indians of the Spokane Reservation

Grand Coulee Dam Equitable Compensation Settlement Act''.

[SEC. 2. FINDINGS.

[Congress finds the following:

[(1) From 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost.

[(2) The Corps of Engineers—

[(A) identified a number of sites, including the site at which the Grand Coulee Dam is located; and

[(B) recommended that power development at those sites be performed by local governmental authorities or private utilities under the Federal Power Act (16 U.S.C. 791a et seq.).

[(3) Under section 10(e) of that Act (16 U.S.C. 803(e)), a licensee is required to compensate an Indian tribe for the use of land under the jurisdiction of the Indian tribe.

[(4) In August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site.

[(5) In the mid-1930's, the Federal Government, which is not subject to the Federal Power Act (16 U.S.C. 791a et seq.)—

[(A) federalized the Grand Coulee Dam project; and

[(B) began construction of the Grand Coulee Dam.

[(6) At the time at which the Grand Coulee Dam project was federalized, the Federal Government recognized that the Spokane Tribe and the Confederated Tribes of the Colville Reservation had compensable interests in the Grand Coulee Dam project, including compensation for—

[(A) the development of hydropower;

[(B) the extinguishment of a salmon fishery on which the Spokane Tribe was almost completely financially dependent; and

[(C) the inundation of land with loss of potential power sites previously identified by the Spokane Tribe.

[(7) In the Act of June 29, 1940, Congress—

[(A) in the first section (16 U.S.C. 835d) granted to the United States—

[(i) all rights of Indian tribes in land of the Spokane Tribe and Colville Indian Reservations that were required for the Grand Coulee Dam project; and

[(ii) various rights-of-way over other land under the jurisdiction of Indian tribes that were required in connection with the project; and

[(B) in section 2 (16 U.S.C. 835e) provided that compensation for the land and rights-of-way was to be determined by the Secretary of the Interior in such amounts as the Secretary determined to be just and equitable.

[(8) In furtherance of that Act, the Secretary of the Interior paid—

[(A) to the Spokane Tribe, $4,700; and

[(B) to the Confederated Tribes of the Colville Reservation, $63,000.

[(9) In 1994, following 43 years of litigation before the Indian Claims Commission, the United States Court of Federal Claims, and the United States Court of Appeals for the Federal Circuit, Congress ratified an agreement between the Confederated Tribes of the Colville Reservation and the United States that provided for damages and annual payments of $15,250,000 in perpetuity, adjusted annually, based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration.

[(10) In legal opinions issued by the Office of the Solicitor of the Department of the Interior, a Task Force Study conducted from 1976 to 1980 ordered by the Committee on Appropriations of the Senate, and hearings before Congress at the time at which the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4577) was enacted, it has repeatedly been recognized that—

[(A) the Spokane Tribe suffered damages similar to those suffered by, and had a case legally comparable to that of, the Confederated Tribes of the Colville Reservation; but

[(B) the 5-year statute of limitations under the Act of August 13, 1946 (25 U.S.C. 70 et seq.) precluded the Spokane Tribe from bringing a civil action for damages under that Act.

[(11) The inability of the Spokane Tribe to bring a civil action before the Indian Claims Commission can be attributed to a combination of factors, including—

[(A) the failure of the Bureau of Indian Affairs to carry out its advisory responsibilities in accordance with that Act; and

[(B) an attempt by the Commissioner of Indian Affairs to impose improper requirements on claims attorneys retained by Indian tribes, which caused delays in retention of counsel and full investigation of the potential claims of the Spokane Tribe.

[(12) As a consequence of construction of the Grand Coulee Dam project, the Spokane Tribe—

[(A) has suffered the loss of—

[(i) the salmon fishery on which the Spokane Tribe was dependent;

[(ii) identified hydropower sites that the Spokane Tribe could have developed; and

[(iii) hydropower revenues that the Spokane Tribe would have received under the Federal Power Act (16 U.S.C. 791a et seq.) had the project not been federalized; and

[(B) continues to lose hydropower revenues that the Federal Government recognized were owed to the Spokane Tribe at the time at which the project was constructed.

[(13) More than 39 percent of the land owned by Indian tribes or members of Indian tribes that was used for the Grand Coulee Dam project was land of the Spokane Tribe.

[SEC. 3. STATEMENT OF PURPOSE.

[The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe, using the same proportional basis as was used in providing compensation to the Confederated Tribes of the Colville Reservation, for the losses suffered as a result of the construction and operation of the Grand Coulee Dam project.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

[(2) CONFEDERATED TRIBES ACT.—The term ''Confederated Tribes Act'' means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4577).

[(3) FUND ACCOUNT.—The term ''Fund Account'' means the Spokane Tribe of Indians Settlement Fund Account established under section 5(a).

[(4) SPOKANE TRIBE.—The term ''Spokane Tribe'' means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

[SEC. 5. SETTLEMENT FUND ACCOUNT.

[(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury an interest-bearing account to be known as the ''Spokane Tribe of Indians Settlement Fund Account''.

[(b) DEPOSIT OF AMOUNTS.—

[(1) INITIAL DEPOSIT.—On the date on which funds are made available to carry out this Act, the Secretary shall deposit in the Fund Account, as payment and satisfaction of the claim of the Spokane Tribe for use of land of the Spokane Tribe for generation of hydropower for the period beginning on June 29, 1940, and ending on November 2, 1994, an amount that is equal to 39.4 percent of the amount paid to the Confederated Tribes of the Colville Reservation under section 5(a) of the Confederated Tribes Act, adjusted to reflect the change, during the period beginning on the date on which the payment described in subparagraph (A) was made to the Confederated Tribes of the Colville Reservation and ending on the date of enactment of this Act, in the Consumer Price Index for all urban consumers published by the Department of Labor.

[(2) SUBSEQUENT DEPOSITS.—On September 30 of the first fiscal year that begins after the date of enactment of this Act, and on September 30 of each of the 5 fiscal years thereafter, the Secretary shall deposit in the Fund Account an amount that is equal to 7.88 percent of the amount authorized to be paid to the Confederated Tribes of the Colville Reservation under section 5(b) of the Confederated Tribes Act through the end of the fiscal year during which this Act is enacted, adjusted to reflect the change, during the period beginning on the date on which the payment to the Confederated Tribes of the Colville Reservation was first made and ending on the date of enactment of this Act, in the Consumer Price Index for all urban consumers published by the Department of Labor.

[(c) ANNUAL PAYMENTS.—On September 1 of the first fiscal year after the date of enactment of this Act, and annually thereafter, the Secretary shall pay to the Spokane Tribe an amount that is equal to 39.4 percent of the annual payment authorized to be paid to the Confederated Tribes of the Colville Reservation under section 5(b) for the Confederated Tribes Act for the fiscal year.

[SEC. 6. USE AND TREATMENT OF SETTLEMENT FUNDS.

[(a) TRANSFER OF FUNDS TO SPOKANE TRIBE.—

[(1) INITIAL TRANSFER.—Not later than 60 days after the date on which the Secretary receives from the Spokane Business Council written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary execute the transfer of settlement funds described in section 5(a), the Secretary shall transfer all or a portion of the settlement funds, as appropriate, to the Spokane Business Council.

[(2) SUBSEQUENT TRANSFERS.—If not all funds described in section 5(a) are transferred to the Spokane Business Council under an initial transfer request described in paragraph (1), the Spokane Business Council may make subsequent requests for, and the Secretary of the Treasury may execute subsequent transfers of, those funds.

[(b) USE OF INITIAL PAYMENT FUNDS.—Of the settlement funds described in subsections (a) and (b) of section 5—

[(1) 25 percent shall be—

[(A) reserved by the Spokane Business Council; and

[(B) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

[(2) 75 percent shall be used by the Spokane Business Council to carry out—

[(A) a resource development program;

[(B) a credit program;

[(C) a scholarship program; or

[(D) a reserve, investment, and economic development program.

[(c) USE OF ANNUAL PAYMENT FUNDS.—Annual payments made to the Spokane Tribe under section 5(c) may be used or invested by the Spokane Tribe in the same manner and for the same purposes as other tribal governmental funds.

[(d) APPROVAL BY SECRETARY.—Notwithstanding any other provision of law—

[(1) the approval of the Secretary of the Treasury or the Secretary of the Interior for any payment, distribution, or use of the

principal, interest, or income generated by any settlement funds transferred or paid to the Spokane Tribe under this Act shall not be required; and

[(2) the Secretary of the Treasury and the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of those funds after the date on which the funds are transferred to or paid to the Spokane Tribe.

[(e) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments and distributions of any portion of the principal, interest, and income generated by the settlement funds described in section 5 shall be treated in the same manner as payments or distributions under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (Public Law 99–346; 100 Stat. 677).

[(f) TRIBAL AUDIT.—After the date on which the settlement funds described in section 5 are transferred or paid to the Spokane Tribe, the funds—

[(1) shall be considered to be Spokane Tribe governmental funds; and

[(2) shall be subject to an annual tribal governmental audit.

[SEC. 7. SATISFACTION OF CLAIMS.

[Payment by the Secretary under section 5 constitutes full satisfaction of the claim of Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project from June 29, 1940, through the fiscal year preceding the fiscal year in which this Act is enacted.

[SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in such land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, $4,700; and

(B) to the Confederated Tribes of the Colville Reservation, $63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the ''Indian Claims Commission Act'' (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the Colville Tribes' land, a payment of $53,000,000; and

(B) for continued use of the Colville Tribes' land, annual payments of $15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the Indian Claims Commission Act's 5-year statute of limitations;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of their land with the Commission before August 13, 1951, but both Tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending their 1951 Claims Commission land claims to add their Grand Coulee claim;

(13) the Spokane Tribe had no such claim to amend, having settled its Claims Commission land claims with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of its land for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) COLVILLE SETTLEMENT AGREEMENT.—The term ''Colville Settlement Agreement'' means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181–D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) COLVILLE TRIBES.—The term ''Colville Tribes'' means the Confederated Tribes of the Colville Reservation.

(4) COMPUTED ANNUAL PAYMENT.—The term ''Computed Annual Payment'' means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) CONFEDERATED TRIBES ACT.—The term ''Confederated Tribes Act'' means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (108 Stat. 4577).

(6) FUND.—The term ''Fund'' means the Spokane Tribe of Indians Settlement Fund established by section 5.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) SPOKANE BUSINESS COUNCIL.—The term ''Spokane Business Council'' means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(9) SPOKANE TRIBE.—The term ''Spokane Tribe'' means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. SETTLEMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States an interest-bearing trust fund to be known as the ''Spokane Tribe of Indians Settlement Fund'', consisting of—

(1) amounts deposited in the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund.

(b) DEPOSITS.—From amounts made available under section 11—

(1) for fiscal year 2006, the Secretary shall deposit in the Fund $17,800,000; and

(2) for each of the 4 fiscal years thereafter, the Secretary shall deposit in the Fund $12,800,000.

(c) MAINTENANCE AND INVESTMENT OF FUND.—The Fund shall be maintained and invested by the Secretary in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(d) PAYMENT OF FUNDS TO SPOKANE BUSINESS COUNCIL.—

(1) REQUEST.—At any time after funds are deposited in the Fund, the Spokane Business Council may submit to the Secretary written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary pay all or a portion of the amounts in the Fund to the Spokane Business Council.

(2) PAYMENT.—Not later than 60 days after receipt of a notice under paragraph (1), the Secretary shall pay the amount requested to the Spokane Business Council.

(e) USE OF FUNDS.—

(1) CULTURAL RESOURCE REPOSITORY AND INTERPRETIVE CENTER.—

(A) IN GENERAL.—Of the initial deposit under subsection (b)(1), $5,000,000 shall be used by the Spokane Business Council for the planning, design, construction, equipping, and continuing operation and maintenance of a Cultural Resource Repository and Interpretive Center to—

(i) house, preserve, and protect the burial remains, funerary objects, and other cultural resources affected by the operation of the Grand Coulee Dam; and

(ii) provide an interpretive and educational facility regarding the culture and history of the Spokane Tribe.

(B) EFFECT.—The funding under subparagraph (A) does not alter or affect any authority, obligation, or responsibility of the United States under—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(ii) the Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.);

(iii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) OTHER USES.—Of all other amounts deposited in the Fund (including interest generated on those amounts)—

(A) 25 percent shall be—

(i) reserved by the Spokane Business Council; and

(ii) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

(B) 75 percent shall be used by the Spokane Business Council to carry out—

(i) resource development programs;

(ii) credit programs;

(iii) scholarship programs; or

(iv) reserve, investment, and economic development programs.

SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

(a) INITIAL PAYMENT.—On March 1, 2007, the Administrator shall pay the Spokane Tribe—

(1) the amount that is equal to 29 percent of the Computed Annual Payment, for fiscal year 2005, adjusted to reflect the change in the Consumer Price Index for all urban consumers published by the Department of Labor, from the date on which the payment for fiscal year 2005 was made to the Colville Tribes to the date on which payment is made to the Spokane Tribe under this subparagraph; and

(2) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2006.

(b) SUBSEQUENT PAYMENTS.—On or before March 1, 2008, and March 1 of each year thereafter, the Administrator shall pay the Spokane Tribe the amount that is equal to 29 percent of the Computed Annual Payment for the previous fiscal year.

SEC. 7. TREATMENT AFTER FUNDS ARE PAID.

(a) USE OF PAYMENTS.—Payments made to the Spokane Business Council or Spokane Tribe under section 5 or 6 may be used or invested by the Business Council in the same manner and for the same purposes as other Spokane Tribe governmental funds.

(b) NO TRUST RESPONSIBILITY OF THE SECRETARY.—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any funds after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments of all funds to the Spokane Business Council and Spokane Tribe under sections 5 and 6, and the interest and income generated by the funds, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) TRIBAL AUDIT.—After the date on which funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6, the funds shall—

(1) constitute Spokane Tribe governmental funds; and

(2) be subject to an annual tribal government audit.

SEC. 8. REPAYMENT CREDIT.

(a) IN GENERAL.—The Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k))—

(1) in fiscal year 2007, $2,600,000; and

(2) in each subsequent fiscal year in which the Administrator makes a payment under section 6, $1,300,000.

(b) CREDITING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each deduction made under this section shall be—

(A) a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made; and

(B) allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during the fiscal year.

(2) DEDUCTION GREATER THAN AMOUNT OF INTEREST.—If, in any fiscal year, the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during the fiscal year.

(3) CREDIT.—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND RESTORATION OF OWNERSHIP OF LAND.

(a) TRANSFER OF JURISDICTION.—The Secretary shall transfer administrative jurisdiction from the Bureau of Reclamation to the Bureau of Indian Affairs over—

(1) all land acquired by the United States under the Act of June 29, 1940 (16 U.S.C. 835d), that is located within the exterior boundaries of the Spokane Indian Reservation established pursuant to the Executive Order of January 18, 1881; and

(2) all land on the south bank of the Spokane River that—

(A) extends westerly from Little Falls Dam to the confluence of the Spokane River and Columbia River; and

(B) is located at or below contour elevation 1290 feet above sea level.

(b) RESTORATION OF OWNERSHIP IN TRUST.—All land transferred under this section—

(1) shall be held in trust for the benefit and use of the Spokane Tribe; and

(2) shall become part of the Spokane Indian Reservation.

(c) RESERVATION OF RIGHTS.—

(1) IN GENERAL.—The United States reserves a perpetual right, power, privilege, and easement over the land transferred under this section to carry out the Columbia Basin Project under the Columbia Basin Project Act (16 U.S.C. 835 et seq.).

(2) RIGHTS INCLUDED.—The rights reserved under paragraph (1) further include the right to operate, maintain, repair, and replace boat ramps, docks, and other recreational facilities owned or permitted by the United States and existing on the date of enactment of this Act.

(3) MEMORANDUM OF UNDERSTANDING.—The cognizant agencies of the Department of the Interior shall enter into a memorandum of understanding with the Spokane Tribe to provide for coordination in applying this subsection.

SEC. 10. SATISFACTION OF CLAIMS.

Payment by the Secretary under section 5 and the Administrator under section 6 and restoration of ownership of land in trust under section 9 constitute full satisfaction of the claim of the Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Amend the title so as to read: ''A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.''.

The amendment (No. 4068) was agreed to, as follows:

(Purpose: To make clear that land transferred under the bill shall remain part of the Lake Roosevelt National Recreation Area)

In section 9(c), redesignate paragraph (3) as paragraph (4).

In section 9(c), after paragraph (2), insert the following:

(3) RETENTION OF NATIONAL PARK SYSTEM STATUS.—

(A) IN GENERAL.—Land transferred under this section that, before the date of enactment of this Act, was included in the Lake Roosevelt National Recreation Area shall remain part of the Recreation Area.

(B) ADMINISTRATION.—Nothing in this section affects the authority or responsibility of the National Park Service to administer the Lake Roosevelt National Recreation Area under the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.).

On page 23, Section 6, after line 11 insert the following:

(c) PAYMENT RECOVERY.—Pursuant to the payment schedule in subsection (b), the Administrator shall make commensurate cost reductions in expenditures on an annual basis to recover each payment to the Tribe. The Administrator shall include this specific cost reduction plan in the annual budget submitted to Congress.

On page 28, after line 3, insert the following:

SEC. 12. PRECEDENT.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

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

The bill (S. 1438), as amended, was read the third time and passed, as follows:

S. 1438

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 ''Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of its land;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in such land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, $4,700; and

(B) to the Confederated Tribes of the Colville Reservation, $63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the ''Indian Claims Commission Act'' (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the Colville Tribes' land, a payment of $53,000,000; and

(B) for continued use of the Colville Tribes' land, annual payments of $15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the Indian Claims Commission Act's 5-year statute of limitations;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of their land with the Commission before August 13, 1951, but both Tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending their 1951 Claims Commission land claims to add their Grand Coulee claim;

(13) the Spokane Tribe had no such claim to amend, having settled its Claims Commission land claims with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and land transfers made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane Tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of its land for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) COLVILLE SETTLEMENT AGREEMENT.—The term ''Colville Settlement Agreement'' means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181–D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) COLVILLE TRIBES.—The term ''Colville Tribes'' means the Confederated Tribes of the Colville Reservation.

(4) COMPUTED ANNUAL PAYMENT.—The term ''Computed Annual Payment'' means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) CONFEDERATED TRIBES ACT.—The term ''Confederated Tribes Act'' means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (108 Stat. 4577).

(6) FUND.—The term ''Fund'' means the Spokane Tribe of Indians Settlement Fund established by section 5.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) SPOKANE BUSINESS COUNCIL.—The term ''Spokane Business Council'' means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(9) SPOKANE TRIBE.—The term ''Spokane Tribe'' means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. SETTLEMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States an interest-bearing trust fund to be known as the ''Spokane Tribe of Indians Settlement Fund'', consisting of—

(1) amounts deposited in the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund.

(b) DEPOSITS.—From amounts made available under section 11—

(1) for fiscal year 2006, the Secretary shall deposit in the Fund $17,800,000; and

(2) for each of the 4 fiscal years thereafter, the Secretary shall deposit in the Fund $12,800,000.

(c) MAINTENANCE AND INVESTMENT OF FUND.—The Fund shall be maintained and invested by the Secretary in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(d) PAYMENT OF FUNDS TO SPOKANE BUSINESS COUNCIL.—

(1) REQUEST.—At any time after funds are deposited in the Fund, the Spokane Business Council may submit to the Secretary written notice of the adoption by the Spokane Business Council of a resolution requesting that the Secretary pay all or a portion of the amounts in the Fund to the Spokane Business Council.

(2) PAYMENT.—Not later than 60 days after receipt of a notice under paragraph (1), the Secretary shall pay the amount requested to the Spokane Business Council.

(e) USE OF FUNDS.—

(1) CULTURAL RESOURCE REPOSITORY AND INTERPRETIVE CENTER.—

(A) IN GENERAL.—Of the initial deposit under subsection (b)(1), $5,000,000 shall be used by the Spokane Business Council for the planning, design, construction, equipping, and continuing operation and maintenance of a Cultural Resource Repository and Interpretive Center to—

(i) house, preserve, and protect the burial remains, funerary objects, and other cultural resources affected by the operation of the Grand Coulee Dam; and

(ii) provide an interpretive and educational facility regarding the culture and history of the Spokane Tribe.

(B) EFFECT.—The funding under subparagraph (A) does not alter or affect any authority, obligation, or responsibility of the United States under—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(ii) the Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.);

(iii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) OTHER USES.—Of all other amounts deposited in the Fund (including interest generated on those amounts)—

(A) 25 percent shall be—

(i) reserved by the Spokane Business Council; and

(ii) used for discretionary purposes of general benefit to all members of the Spokane Tribe; and

(B) 75 percent shall be used by the Spokane Business Council to carry out—

(i) resource development programs;

(ii) credit programs;

(iii) scholarship programs; or

(iv) reserve, investment, and economic development programs.

SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

(a) INITIAL PAYMENT.—On March 1, 2007, the Administrator shall pay the Spokane Tribe—

(1) the amount that is equal to 29 percent of the Computed Annual Payment, for fiscal year 2005, adjusted to reflect the change in the Consumer Price Index for all urban consumers published by the Department of Labor, from the date on which the payment for fiscal year 2005 was made to the Colville Tribes to the date on which payment is made to the Spokane Tribe under this subparagraph; and

(2) the amount that is equal to 29 percent of the Computed Annual Payment for fiscal year 2006.

(b) SUBSEQUENT PAYMENTS.—On or before March 1, 2008, and March 1 of each year thereafter, the Administrator shall pay the Spokane Tribe the amount that is equal to 29 percent of the Computed Annual Payment for the previous fiscal year.

(c) PAYMENT RECOVERY.—Pursuant to the payment schedule in subsection (b), the Administrator shall make commensurate cost reductions in expenditures on an annual basis to recover each payment to the Tribe. The Administrator shall include this specific cost reduction plan in the annual budget submitted to Congress.

SEC. 7. TREATMENT AFTER FUNDS ARE PAID.

(a) USE OF PAYMENTS.—Payments made to the Spokane Business Council or Spokane Tribe under section 5 or 6 may be used or invested by the Business Council in the same manner and for the same purposes as other Spokane Tribe governmental funds.

(b) NO TRUST RESPONSIBILITY OF THE SECRETARY.—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any funds

after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments of all funds to the Spokane Business Council and Spokane Tribe under sections 5 and 6, and the interest and income generated by the funds, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) TRIBAL AUDIT.—After the date on which funds are paid to the Spokane Business Council or Spokane Tribe under section 5 or 6, the funds shall—

(1) constitute Spokane Tribe governmental funds; and

(2) be subject to an annual tribal government audit.

SEC. 8. REPAYMENT CREDIT.

(a) IN GENERAL.—The Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds (as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k))—

(1) in fiscal year 2007, $2,600,000; and

(2) in each subsequent fiscal year in which the Administrator makes a payment under section 6, $1,300,000.

(b) CREDITING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each deduction made under this section shall be—

(A) a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made; and

(B) allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during the fiscal year.

(2) DEDUCTION GREATER THAN AMOUNT OF INTEREST.—If, in any fiscal year, the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during the fiscal year.

(3) CREDIT.—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION AND RESTORATION OF OWNERSHIP OF LAND.

(a) TRANSFER OF JURISDICTION.—The Secretary shall transfer administrative jurisdiction from the Bureau of Reclamation to the Bureau of Indian Affairs over—

(1) all land acquired by the United States under the Act of June 29, 1940 (16 U.S.C. 835d), that is located within the exterior boundaries of the Spokane Indian Reservation established pursuant to the Executive Order of January 18, 1881; and

(2) all land on the south bank of the Spokane River that—

(A) extends westerly from Little Falls Dam to the confluence of the Spokane River and Columbia River; and

(B) is located at or below contour elevation 1290 feet above sea level.

(b) RESTORATION OF OWNERSHIP IN TRUST.—All land transferred under this section—

(1) shall be held in trust for the benefit and use of the Spokane Tribe; and

(2) shall become part of the Spokane Indian Reservation.

(c) RESERVATION OF RIGHTS.—

(1) IN GENERAL.—The United States reserves a perpetual right, power, privilege, and easement over the land transferred under this section to carry out the Columbia Basin Project under the Columbia Basin Project Act (16 U.S.C. 835 et seq.).

(2) RIGHTS INCLUDED.—The rights reserved under paragraph (1) further include the right to operate, maintain, repair, and replace boat ramps, docks, and other recreational facilities owned or permitted by the United States and existing on the date of enactment of this Act.

(3) RETENTION OF NATIONAL PARK SYSTEM STATUS.—

(A) IN GENERAL.—Land transferred under this section that, before the date of enactment of this Act, was included in the Lake Roosevelt National Recreation Area shall remain part of the Recreation Area.

(B) ADMINISTRATION.—Nothing in this section affect the authority or responsibility of the National Park Service to administer the Lake Roosevelt National Recreation Area under the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.).

(4) MEMORANDUM OF UNDERSTANDING.—The cognizant agencies of the Department of the Interior shall enter into a memorandum of understanding with the Spokane Tribe to provide for coordination in applying this subsection.

SEC. 10. SATISFACTION OF CLAIMS.

Payment by the Secretary under section 5 and the Administrator under section 6 and restoration of ownership of land in trust under section 9 constitute full satisfaction of the claim of the Spokane Tribe to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 12. PRECEDENT.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

The title was amended so as to read: ''A bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.''

INDIVIDUAL INDIAN MONEY ACCOUNT TRUST FUND LAWSUIT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 248 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 248) expressing the sense of the Senate concerning the individual Indian money account trust fund lawsuit.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the Campbell amendment at the desk be agreed to, the resolution be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and any statements related to the measure be printed in the RECORD.

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

The amendment (No. 4070) was agreed to, as follows:

(Purpose: To provide a complete substitute for the preamble)

Whereas, since the 19th century, the United States has held Indian funds and resources in trust for the benefit of Indians, and in its capacity as trustee, is obligated to protect those funds and resources;

Whereas the Senate reaffirms that in continuing to hold and manage Indian funds and resources for the benefit of the Indians, the United States must act in accordance with all applicable standards and duties of care;

Whereas, in 1996, a class action was brought against the United States seeking an accounting of balances of individual Indian money accounts and rehabilitation of the trust system;

Whereas after 8 years of litigation and the expenditure of tens of millions of dollars in Federal funds, the Senate believes that there is a demonstrated need to assist and encourage the parties in reaching a full, fair, and final resolution to the class action litigation; and

Whereas the resolution of the class action litigation may be achieved through alternative dispute resolution processes, including mediation: Now, therefore, be it

The amendment (No. 4070) was agreed to.

The resolution was agreed to.

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

The resolution will be printed in a future edition of the RECORD.

REAUTHORIZING THE HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3014, which was introduced earlier today by Senators SNOWE and BREAUX.

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

The legislative clerk read as follows:

A bill (S. 3014) to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement regarding this matter be printed in the RECORD.

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

The bill (S. 3014) was read the third time and passed, as follows:

S. 3014

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

TITLE I—HARMFUL ALGAL BLOOM AND HYPOXIA AMENDMENTS ACT OF 2004

SEC. 101. SHORT TITLE.

This title may be cited as the ''Harmful Algal Bloom and Hypoxia Amendments Act of 2004''.

SEC. 102. RETENTION OF TASK FORCE.

Section 603 of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 nt) is amended by striking subsection (e). In developing the assessments, reports, and plans under the amendments made by this title, the Task Force shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management.

SEC. 103. PREDICTION AND RESPONSE REPORT.

Section 603 of such Act, as amended by section 102, is further amended by adding at the end the following:

''(d) REPORT TO CONGRESS ON HARMFUL ALGAL BLOOM IMPACTS.—

''(1) DEVELOPMENT.—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to protect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

''(2) REQUIREMENTS.—The report shall—

''(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

''(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

''(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

''(3) PUBLICATION AND OPPORTUNITY FOR COMMENT.—At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

''(4) FEDERAL ASSISTANCE.—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested.''.

SEC. 104. LOCAL AND REGIONAL SCIENTIFIC ASSESSMENTS.

Section 603 of such Act, as amended by section 103, is further amended by adding at the end the following:

''(e) LOCAL AND REGIONAL SCIENTIFIC ASSESSMENTS.—

''(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harmful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

''(2) PURPOSE.—Local and regional assessments shall examine—

''(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

''(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

''(C) other topics the Task Force considers appropriate.

''(f) SCIENTIFIC ASSESSMENT OF FRESHWATER HARMFUL ALGAL BLOOMS.—(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 the Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

''(2) The freshwater harmful algal bloom scientific assessment shall—

''(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

''(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based interagency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

''(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

''(g) SCIENTIFIC ASSESSMENTS OF HYPOXIA.—(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004.

''(2) The assessments under this subsection shall—

''(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

''(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

''(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

''(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

''(h) SCIENTIFIC ASSESSMENTS OF HARMFUL ALGAL BLOOMS.—(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

''(2) The assessments under this subsection shall—

''(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

''(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

''(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

''(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

''(i) NATIONAL SCIENTIFIC RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TECHNOLOGY TRANSFER PLAN ON REDUCING IMPACTS FROM HARMFUL ALGAL BLOOMS.—(1) Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

''(2) The plan shall—

''(A) establish priorities and guidelines for a competitive, peer reviewed, merit based interagency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

''(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

''(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

''(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public.''.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 605 of such Act is amended—

(1) by striking ''and'' after ''2000,'' in the first sentence and in the paragraphs (1), (2), (3), and (5);

(2) by inserting ''$23,500,000 for fiscal year 2005, $24,500,000 for fiscal year 2006, $25,000,000

for fiscal year 2007, and $25,500,000 for fiscal year 2008,'' after ''2001,'' in the first sentence;

(3) by inserting '', and $2,500,000 for each of fiscal years 2005 through 2008'' after ''2001'' in paragraph (1);

(4) by inserting '', and $6,500,000, of which $1,000,000 shall be used for the research program described in section 603(f)(2)(B), for each of fiscal years 2005 through 2008'' after ''2001'' in paragraph (2);

(5) by striking ''2001'' in paragraph (3) and inserting ''2001, and $3,000,000 for each of fiscal years 2005 through 2008'';

(6) by striking ''blooms;'' in paragraph (3) and inserting ''blooms and to carry out section 603(d);'';

(7) by striking ''and 2001'' in paragraph (4) and inserting ''2001, and $6,000,000 for each of fiscal years 2005 through 2008'';

(8) by striking ''and'' after the semicolon in paragraph (4);

(9) by striking ''2001'' in paragraph (5) and inserting ''2001, $4,000,000 for fiscal year 2005, $5,000,000 for fiscal year 2006, $5,500,000 for fiscal year 2007, and $6,000,000 for fiscal year 2008'';

(10) by striking ''Administration.'' in paragraph (5) and inserting ''Administration; and''; and

(11) by adding at the end the following:

''(6) $1,500,000 for each of fiscal years 2005 through 2008 to carry out section 603(e).''.

TITLE II—MISCELLANEOUS

SEC. 201. AVAILABILITY OF NOAA REAL PROPERTY ON VIRGINIA KEY, FLORIDA.

(a) IN GENERAL.—The Secretary of Commerce may make available to the University of Miami real property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for development by the University of a Marine Life Science Center.

(b) MANNER OF AVAILABILITY.—The Secretary may make property available under this section by easement, lease, license, or long-term agreement with the University.

(c) AUTHORIZED USES BY UNIVERSITY.—

(1) IN GENERAL.—Property made available under this section may be used by the University (subject to paragraph (2)) to develop and operate facilities for multidisciplinary environmental and fisheries research, assessment, management, and educational activities.

(2) AGREEMENT.—Property made available under this section may not be used by the University (including any affiliate of the University) except in accordance with an agreement with the Secretary that—

(A) specifies—

(i) the conditions for non-Federal use of the property; and

(ii) the retained Federal interests in the property, including interests in access to and egress from the property by Federal personnel and preservation of existing rights-of-way;

(B) establishes conditions for joint occupancy of buildings and other facilities on the property by the University and Federal agencies; and

(C) includes provisions that ensure—

(i) that there is no diminishment of existing National Oceanic and Atmospheric Administration programs and services at Virginia Key; and

(ii) the availability of the property for planning, development, and construction of future Federal buildings and facilities.

(3) TERMINATION OF AVAILABILITY.—The availability of property under this section shall terminate immediately upon use of the property by the University—

(A) for any purpose other than as described in paragraph (1); or

(B) in violation of the agreement under paragraph (2).

(d) USE OF FACILITIES BY SECRETARY.—The Secretary may—

(1) subject to the availability of funding, enter into an agreement to occupy facilities constructed by the University on property made available under this section; and

(2) participate with the University in collaborative research at, or administered through, such facilities.

(e) NO CONVEYANCE OF TITLE.—This section shall not be construed to convey or authorize conveyance of any interest of the United States in title to property made available under this section.

SEC. 202. CONVEYANCE OF NOAA VESSEL WHITING.

(a) IN GENERAL.—The Secretary of Commerce shall convey to the Government of Mexico, without consideration, all right, title, and interest of the United States in and to the National Oceanic and Atmospheric Administration vessel WHITING—

(1) for use as a hydrographic survey platform in support of activities of the United States-Mexico Charting Advisors Committee; and

(2) to enhance coordination and cooperation between the United States and Mexico regarding hydrographic surveying and nautical charting activities in the border waters of both countries in the Gulf of Mexico and in the Pacific Ocean.

(b) OPERATION AND MAINTENANCE.—The Government of the United States shall not be responsible or liable for any remediation, maintenance, or operation of a vessel conveyed under this section after the date of the delivery of the vessel to the Government of Mexico.

(c) DEADLINE.—The Secretary shall seek to complete the conveyance by as soon as practicable after the date of the enactment of this Act.

(d) DELIVERY OF VESSEL.—The Secretary shall deliver the vessel WHITING pursuant to this section at the vessel's homeport location of Norfolk, Virginia, at no additional cost to the United States.

TRAINING FOR REALTIME WRITERS ACT OF 2003

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 790, S. 480.

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

The legislative clerk read as follows:

A bill (S. 480) to provide competitive grants for training court reporters and closed captioners to meet requirements of realtime writers under the Telecommunications Act of 1996, and for other purposes.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statement relating to the bill be printed in the RECORD.

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

The bill (S. 480) was read the third time and passed, as follows:

S. 480

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 ''Training for Realtime Writers Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As directed by Congress in section 723 of the Communications Act of 1934 (47 U.S.C. 613), as added by section 305 of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 126), the Federal Communications Commission adopted rules requiring closed captioning of most television programming, which gradually require new video programming to be fully captioned beginning in 2006.

(2) More than 28,000,000 Americans, or 8 percent of the population, are considered deaf or hard of hearing, and many require captioning services to participate in mainstream activities.

(3) More than 24,000 children are born in the United States each year with some form of hearing loss.

(4) According to the Department of Health and Human Services and a study done by the National Council on Aging—

(A) 25 percent of Americans over 65 years old are hearing impaired;

(B) 33 percent of Americans over 70 years old are hearing impaired; and

(C) 41 percent of Americans over 75 years old are hearing impaired.

(5) The National Council on Aging study also found that depression in older adults may be directly related to hearing loss and disconnection with the spoken word.

(6) Empirical research demonstrates that captions improve the performance of individuals learning to read English and, according to numerous Federal agency statistics, could benefit—

(A) 3,700,000 remedial readers;

(B) 12,000,000 young children learning to read;

(C) 27,000,000 illiterate adults; and

(D) 30,000,000 people for whom English is a second language.

(7) Over the past 5 years, student enrollment in programs that train court reporters to become realtime writers has decreased significantly, causing such programs to close on many campuses.

SEC. 3. AUTHORIZATION OF GRANT PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall make competitive grants to eligible entities under subsection (b) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 723 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

(b) ELIGIBLE ENTITIES.—For purposes of this Act, an eligible entity is a court reporting program that—

(1) can document and demonstrate to the Secretary of Commerce that it meets minimum standards of educational and financial accountability, with a curriculum capable of training realtime writers qualified to provide captioning services;

(2) is accredited by an accrediting agency recognized by the Department of Education; and

(3) is participating in student aid programs under title IV of the Higher Education Act of 1965.

(c) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary of Commerce shall give a priority to eligible entities that, as determined by the Secretary of Commerce—

(1) possess the most substantial capability to increase their capacity to train realtime writers;

(2) demonstrate the most promising collaboration with local educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(3) propose the most promising and innovative approaches for initiating or expanding training and job placement assistance efforts with respect to realtime writers.

(d) DURATION OF GRANT.—A grant under this section shall be for a period of two years.

(e) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under subsection (a) to an entity eligible may not exceed $1,500,000 for the two-year period of the grant under subsection (d).

SEC. 4. APPLICATION.

(a) IN GENERAL.—To receive a grant under section 3, an eligible entity shall submit an application to the National Telecommunications and Information Administration at such time and in such manner as the Administration may require. The application shall contain the information set forth under subsection (b).

(b) INFORMATION.—Information in the application of an eligible entity under subsection (a) for a grant under section 3 shall include the following:

(1) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(2) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(3) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(4) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(5) A description of how the eligible entity will work with local workforce investment boards to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(6) Additional information, if any, of the eligibility of the eligible entity for priority in the making of grants under section 3(c).

(7) Such other information as the Administration may require.

SEC. 5. USE OF FUNDS.

(a) IN GENERAL.—An eligible entity receiving a grant under section 3 shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(1) recruitment;

(2) subject to subsection (b), the provision of scholarships;

(3) distance learning;

(4) development of curriculum to more effectively train realtime writing skills, and education in the knowledge necessary for the delivery of high-quality closed captioning services;

(5) assistance in job placement for upcoming and recent graduates with all types of captioning employers;

(6) encouragement of individuals with disabilities to pursue a career in realtime writing; and

(7) the employment and payment of personnel for such purposes.

(b) SCHOLARSHIPS.—

(1) AMOUNT.—The amount of a scholarship under subsection (a)(2) shall be based on the amount of need of the recipient of the scholarship for financial assistance, as determined in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk).

(2) AGREEMENT.—Each recipient of a scholarship under subsection (a)(2) shall enter into an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time (as determined by the Administration) that is appropriate (as so determined) for the amount of the scholarship received.

(3) COURSEWORK AND EMPLOYMENT.—The Administration shall establish requirements for coursework and employment for recipients of scholarships under subsection (a)(2), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. Requirements for repayment of scholarship amounts shall take into account the effect of economic conditions on the capacity of scholarship recipients to find work as realtime writers.

(c) ADMINISTRATIVE COSTS.—The recipient of a grant under section 3 may not use more than 5 percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(d) SUPPLEMENT NOT SUPPLANT.—Grants amounts under this Act shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers

SEC. 6. REPORTS.

(a) ANNUAL REPORTS.—Each eligible entity receiving a grant under section 3 shall submit to the National Telecommunications and Information Administration, at the end of each year of the grant period, a report on the activities of such entity with respect to the use of grant amounts during such year.

(b) REPORT INFORMATION.—

(1) IN GENERAL.—Each report of an entity for a year under subsection (a) shall include a description of the use of grant amounts by the entity during such year, including an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers. The assessment shall utilize the performance measures submitted by the entity in the application for the grant under section 4(b).

(2) FINAL REPORT.—The final report of an entity on a grant under subsection (a) shall include a description of the best practices identified by the entity as a result of the grant for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act, amounts as follows:

(1) $20,000,000 for each of fiscal years 2004, 2005, and 2006.

(2) Such sums as may be necessary for fiscal year 2007.

Mr. CRAIG. Mr. President, that concludes the unanimous consent requests at this time. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, briefly, I wish to thank the Senator from Idaho. The bill that was just passed is a bill that provides grants for training court reporters for closed caption reporting. In 1996, the Congress passed a bill that said by 2006 all television shows have to be closed captioned. By 2010, all Spanish-speaking shows have to be closed captioned. That is going to take about 3,000 people trained to do this. We have less than 500 trained right now. We are not going to meet that date, but we have to move ahead and try our best to get these people trained in our community colleges all over the country. That is what this bill does.

I especially want to thank Senator MCCAIN, the chairman of the Commerce Committee, for his expeditious handling of this bill and letting it go through. I am assured the House is going to pass it unanimously, so we can get on with the business of training our reporters so that they can do realtime closed captioning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. FRIST. Mr. President, so our colleagues will know what our plans will be tonight and tomorrow—and I talked with the Democratic leader briefly earlier—the House will finish the omnibus tonight, midnight or 1 o'clock. Because I know many Senators have lots of other things to do, since we cannot say with definition when the House will complete the bill, I think it is best that we say there are no more rollcall votes tonight and that we will address the omnibus tomorrow.

In addition, we have IDEA, the Individuals with Disabilities Education Act, which we need to vote on tomorrow as well. We will talk back and forth as to what time we will be coming in tomorrow morning.

We have had a very busy day. It has been a very constructive day, a great day in terms of tributes on both sides of the aisle. So we have had a good day.

We will, unfortunately, not be able to complete our business until tomorrow. There will be a lot of phone calls in terms of what time we will be voting. We cannot really say at this juncture—depending on how people view the omnibus coming over—whether or not a rollcall vote will be required on IDEA. My expectation is we will have one or two votes over the course of tomorrow. As soon as we get some sort of certainty in the schedules—it is a little bit out of our hands, depending on what action is taken in the House—we will be sure, through our respective conferences, to let everybody know tonight.

Before we leave tonight, we will set a time to come in tomorrow morning. I assume it is going to be around 9:30 or 10 o'clock. We will address that accordingly.

That is it in terms of information. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I will be happy to yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Iowa be recognized upon the completion of the remarks of the Senator from Florida.

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

TRIBUTES TO RETIRING SENATORS

Mr. NELSON of Florida. Mr. President, while the Senate is holding in abeyance for the final Omnibus appropriations bill that the House is getting ready to file sometime tonight, I want to take the opportunity to pay tribute to our retiring Senators: TOM DASCHLE, FRITZ HOLLINGS, DON NICKLES, JOHN BREAUX, BEN NIGHTHORSE CAMPBELL, JOHN EDWARDS, PETER FITZGERALD, ZELL MILLER, and BOB GRAHAM.

I wish to make a speech about each one of these Senators who has become a dear friend, in some cases, over the years, such as FRITZ and Peatsy Hollings, who took special interest in me as I came to the Senate and made sure I got on his Commerce Committee, which has been just an extraordinary experience with him as chairman, as well as with the present chairman, JOHN MCCAIN.

DON NICKLES, whom I have known over the 24 years he has been in the Senate, for I was in the House at the time, has been a regular in our Wednesday morning Senate prayer breakfast. He is a good friend.

JOHN BREAUX, the very mention of his name brings a twinkle to your eye as you recall the wonderful good times and the great sense of humor that JOHN BREAUX has. He is the most popular politician in the State of Louisiana. He is going to be sorely missed as the dealmaker of the Senate.

BEN NIGHTHORSE CAMPBELL has this wonderful new museum for Native Americans which would not have happened—just a stone's throw from this Capitol—had it not been for his leadership. There is, as you go through this museum, a special display on the artwork of BEN. I commend it to our colleagues.

PETER FITZGERALD is a very active member of our Commerce Committee, who, in the comments by his colleague from Illinois, Senator DURBIN, today said it very well, could work so well with Members of both sides.

A southern icon, Senator ZELL MILLER, will go down in southern history as one of the great progressive Governors of the new South. He is one who has always extended wonderful courtesies to me.

I wish to say a special word about JOHN EDWARDS, for he came to the Senate in a seat that was already held by an incumbent Senator, and they said it could not be done. They said a Democrat could not win in North Carolina. Of course, JOHN did and took the national stage by storm.

I spent several days with him over the course of the past several months in the campaign. I can tell you it was a wonderful inspiration to see the amount of energy, focus, discipline, and intelligence he brought not only as a Senator but as a candidate for Vice President of this great country.

And then, of course, we all know the story of how on the very day that JOHN had to concede the election, along with our colleague, the Senator from Massachusetts, his wife told him that she had breast cancer. I want Elizabeth and JOHN to know that our prayers are with them and that we are all sharing a great deal of optimism about her complete recovery.

I had the wonderful privilege of observing their three loving children on the campaign trail—their daughter Kate, and then, of course, the two young ones, Jack and Emma Claire, as they would bounce with such boundless enthusiasm on that campaign plane.

There is a special part in my heart for TOM DASCHLE. We came to the Congress together in 1978. Among the freshman class in the House of Representatives that year, we knew TOM as ''Landslide'' DASCHLE. He won his race for Congress by 14 votes. Of course, he says that was a big percentage of the total vote in South Dakota at that time.

We saw him grow over the years into a great Democratic leader, both minority and majority leader of the Senate, and we saw the pressure that TOM was under.

Who here would not remember exactly where you were and what you were doing on September 11, 2001. We were in a leadership meeting only a few feet from here on the West Front of the Capitol watching the television of the World Trade Center, and had tried to resume our meeting when someone burst through the door and said: The Pentagon's been hit.

We leapt to the window looking west across the Mall in the southwest direction of the Pentagon and saw the black smoke rising.

People went their separate ways. I leapt to a telephone to try to get word to my wife because we had just moved into an apartment overlooking the southwest corner of the Pentagon.

That day I remember so vividly seeing the Constitution at work, because as I came back into the room and saw the people pouring out of the majority leader's office, under the orders of the Capitol Police to get out of the building, evacuate immediately, I saw the security people of the Capitol Police take TOM in a different direction to an undisclosed location where he, along with the rest of the congressional leadership, was to be sequestered as a protection of this constitutional government and its continuity.

TOM grew a lot in those ensuing days. That was in the morning, sometime right after 10 on September 11. I remember that evening, as dark fell, Members of the House and the Senate of all parties on the east front steps of the U.S. Capitol holding hands and singing ''God Bless America'' to demonstrate in what little way we could that those who sought to strike us down were going to see the resolve and the unity of the Government of the United States.

I could keep going on about TOM, but we heard his comments today. Of course it is with a heavy heart that we see TOM leave this Chamber. It is under circumstances that I hope we never see replicated.

There has to be civility in this body. There has to be a mutual respect. There has to be a respect for the truth. There has to be respect for the dignity of individuals and their families. Have we lost our compass? Have we lost our anchor? Have we lost our sense of human beings?

This Senator can do something about that, as I have tried in the past, by the way I conduct myself with regard to my relationship to other Senators in wanting to treat others as I would like to be treated. Now that the fractiousness and the divisiveness of this highly partisan, highly ideological, rigid time of debate is behind us, it is my hope this Senate can start to come together for the good of the people, even as we approach another election time. It is for the sake of the Nation that we must do this.

BOB GRAHAM

I conclude my comments about my colleague from Florida, my mentor, my friend of many years. It is hard to believe BOB GRAHAM has been elected to serve almost 40 years—38 years to be exact. From when he was first elected to the State legislature in 1966, he has been in elected office ever since—two terms in the State house, two terms in the State senate, two terms as the Governor of Florida, where he had a magnificent record, where he has put his stamp as one of Florida's great Governors, starting programs to save the Florida Everglades, the River of Grass, the Kissimmee River, and the Everglades restoration that has now started that is an $8 million project shared half and half between the State and the Federal Government. That is a great legacy for BOB.

Then, of course, his three terms in the Senate, 10 years of which he served on the Senate Intelligence Committee, the last 2 of which he served as chairman of that committee. Of course, with that great knowledge and expertise, in the course of the debates here, BOB has given us great insight and wisdom.

Finally, some of his fellow Senators convinced him that he ought to sit down and write a book and that book is entitled ''Intelligence Matters.'' It is my hope that with other Senators on this floor that we are going to be able to help BOB fulfill one of his dreams, which is that in an intelligence service that has been decimated from time to time as a result of the whims of appropriations, that a professional core of

career intelligence officers can be enhanced by starting an ROTC for intelligence officers.

We are going to try to get the appropriations to start that and to do it at one of our Florida universities named for BOB GRAHAM. Let that little incubator show the way to see whether that is a system we can adopt around the country to give an ample supply of officers who are ready for service in the intelligence service.

So it is again with a heavy heart that I see my colleague, Senator GRAHAM, retire after a distinguished career. He will not be retiring as a public servant, because whether it be from the position of a university—and it is my understanding he will be going to Harvard for a year at the Kennedy School—or whether it be back in our State affiliated with several of our universities in Florida, BOB will be rendering public service to the people of this country for some period of time.

So for all of these names I have mentioned, in the great poem ''Ulysses,'' he says, ''I am a part of all that I have met,'' and I am a part of all these great Senators. I am much richer for it and for having been their friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

TOM DASCHLE

Mr. HARKIN. Mr. President, in these final working days of the 108th Congress, as so many speakers before me have said, we are saying farewell to a number of our retiring colleagues. I intend to speak about a couple of them this evening and will have more to say about some of the others tomorrow.

A most painful farewell will be to my good friend Senator TOM DASCHLE. I do not know that I have heard a more heartfelt, soul-searching, and inspirational speech about what a Senator should be, ought to be, and must be than the speech given by our great leader Senator DASCHLE earlier this evening.

As I sat and listened to that speech, especially when he talked about Dick Reiners, my mind went back to 1978 when I was just a second-term Congressman from the State of Iowa and I was asked to go campaign in South Dakota for this young guy running for the House whose name was TOM DASCHLE. His former employer, Senator Jim Abourezk, came to Iowa to campaign for me and asked me to reciprocate. Because I had been active in some farm issues and agricultural issues, he asked me to campaign in South Dakota, and I did.

I struck up a friendship with TOM DASCHLE at that point that endures to this day and will endure forever. So I would go out and campaign for him and then he would come and campaign for me and I would campaign and we would go back and forth from Iowa to South Dakota. Of course, we shared a common border up at Sioux City. Much of Sioux Falls's television comes into Iowa. Much of Sioux City's goes into South Dakota. So we have shared kind of a common area there of constituents, constituencies over all these years.

So it is a painful farewell to my good friend TOM DASCHLE. These days, there are fewer and fewer bipartisan agreements in this body. But I sense today that there was bipartisan agreement about TOM DASCHLE. We respect his decency, his fairness, his courage and leadership, his extraordinary capacity for hard work. I cannot imagine a more difficult job in the Senate than being leader of the Democratic caucus. We have all heard Will Rogers quip that he belonged to no organized party, he was a Democrat.

Those independent, hard-headed habits flourish within our caucus. For the last decade, TOM DASCHLE's amazing skills and unlimited patience have brought us together as a team. That is an accomplishment of which he can be very proud.

The President of the United States, it is said, has the persuasion of power. But the leader of our Senate Democratic caucus has only the power of persuasion. I cannot imagine anyone more persuasive than Senator TOM DASCHLE. He has always been willing to talk with us, accommodate us whenever possible, to do whatever it takes, however long it takes, to forge a consensus and move us ahead. We are grateful. I am grateful for his leadership, his diligence, for his grace that he has unfailingly brought to this job as our leader. I cannot emphasize enough this fairness and this underlying grace of this wonderful human being. Unfailingly fair to all.

When Democrats were in the majority, Majority Leader DASCHLE was respectful of the rights and the prerogatives of our Republican minority. Conversely, as our minority leader, he has steadfastly defended the rights and the prerogatives of the Democratic minority. In the heat of a partisan campaign, some have labeled this ''obstructionism,'' but that characterization is incorrect. The duty of the opposition party is present compelling alternatives, and to do so fairly, forthrightly, and within the rules of the Senate. The duty of the leader of our opposition is to protect the rights of the minority so that our voice and our votes can be heard; so that we can speak out and offer a different way, a different path. That is our duty as opposition. Senator DASCHLE protected the rights of the minority, so important in our country, not just in the Senate, but important for us as a country.

If there is one thing that is pervasive in our Constitution and our Bill of Rights, it is just that; it is the protection of the minority so the minority can be heard. That is so the minority's voice and votes will be counted. That is exactly what Senator DASCHLE has done. There is not one hint of obstructionism. What he has done is to protect and enhance the rights of the minority, and he did it with skill and persistence, with fairness and with grace.

Over all these years of service with TOM DASCHLE in the House and in the Senate, I have always respected how he fought and advocated for his constituents in South Dakota. No one has fought harder in the House and in the Senate for the revitalization of rural America than TOM DASCHLE. No one has fought harder to bring health care and good schools and economic opportunity to Indian country. No one has fought harder to increase the income of family farmers and give them a fair shake in the marketplace.

Another jewel in the crown of TOM DASCHLE's legacy is the emerging ethanol industry in the United States. Since TOM arrived in Congress in 1978, he has been a relentless champion of ethanol. He mentioned that in his farewell speech today. I know he was a relentless champion because I was there, too, during those early years. People said those of us who were advocating the expanded use of ethanol didn't have a chance against big oil. But Senator DASCHLE persevered. He used the 1990 Clean Air Act to put in place policies that gave birth to the ethanol industry in our country. He continued to promote tax incentives and a renewable fuel standard to advance ethanol and to move our country towards energy independence.

No doubt about it, Senator DASCHLE's leadership on ethanol brought us to where we are today in the production of this renewable and clean fuel in America. His leadership on ethanol will be greatly missed in the future.

It has been a privilege to serve in this body with TOM DASCHLE. I will miss him as a colleague. I will miss his leadership, that fairness, that gentleness of nature, but that steely determination to make sure that our views and our votes were counted; that steely determination to make sure that people who live in small towns in rural America are not forgotten, that their interests are protected here. I will miss him as a friend. Oh, I am not going to lose contact with TOM and Linda. My wife and I will continue to count them as good friends. But I will miss him as a friend here in the Senate.

As TOM DASCHLE said today, he has always been an optimist. I have never known TOM DASCHLE to ever utter a pessimistic word. For him the sunrise was always better than the sunset. So the Sun rises on a new chapter in TOM DASCHLE's life. That Sun is going to be bright. It is going to be bright because of who TOM DASCHLE is, what he is. So there are going to be some new days and important chapters ahead written in the life of TOM DASCHLE. Both Ruth and I wish TOM and Linda and his family the very best in the years ahead.

We will continue to look forward to his input into the political life of America and into the common wheel that binds us as a country.

JOHN EDWARDS

Mr. HARKIN. Mr. President, I would also like to express my respect to and

admiration for the retiring senior Senator from North Carolina, Senator JOHN EDWARDS, who also spoke earlier. We will miss his unique, skillful, and persuasive voice in the debates here on the Senate floor. Time and again we have seen his knack for taking complex arguments and making them accessible and persuasive to ordinary people. Time and again his skills have carried the day.

I fully understand the advice uttered by one of my Republican colleagues one time, when he said, ''Never yield the floor to JOHN EDWARDS.''

Over the last year and a half, people in my State of Iowa have gotten to know JOHN and his wonderful wife Elizabeth very well. As I have often said, JOHN EDWARDS was the only person to run for national office as a Vice Presidential candidate who visited each one of Iowa's 99 counties. He has been all over our State, in our schools, in our coffee shops, and in our living rooms. In fact, we have often said in Iowa if it weren't for that southern accent, you would think JOHN was born and raised in Iowa.

I can say that we on the Democratic side, we Democrats in Iowa and all over the country, are proud of his race to secure the nomination of our party, which he did not get, which went to another of our colleagues, Senator JOHN KERRY. But we were proud of how JOHN EDWARDS sought that nomination. And we are doubly proud of his conduct as our nominee for Vice President of the United States.

He always comes across as just folks, which is what you would expect from a person raised in very modest circumstances, the first in his family to go to college. That humble background was an enormous strength for JOHN EDWARDS. It is a strength we saw on that campaign trail that allowed him to understand people and to communicate powerfully with ordinary people. People responded in kind. All over this country, people just plainly liked JOHN EDWARDS. They trusted him because he spoke to them in a language they understood.

But if Iowans and other Americans see just plain folks in JOHN EDWARDS on the campaign trail, Senators here have been privileged to see a different side of him, hard at work in this Senate. He has only been here one term. He surely made his mark. He made his mark first by challenging an incumbent Senator, and took on the Jesse Helms machine in North Carolina, and he beat it. That is no small feat in North Carolina.

He made his mark here as lead cosponsor of the Patients' Bill of Rights, along with Senators KENNEDY and MCCAIN. He managed the bill on the floor. He was the lead negotiator in hammering out a bipartisan consensus on the bill.

He made his mark by sponsoring and passionately advocating for a bill to speed up the approval of generic drugs.

As I said in my State of Iowa, JOHN EDWARDS made his mark and won people's hearts with his big smile, his friendly manner, and his boundless optimism.

He won our respect with a campaign that was always positive. Even under provocation, even when stakes were the highest in the final weeks of the campaign leading up to the caucuses, JOHN never wavered from his positive message of hope and opportunity for ordinary Americans.

We are proud of our colleague Senator EDWARDS, and we know we will not hear the last of him as he leaves this body.

We say farewell to Senator JOHN EDWARDS. I know and I hope and I trust we will hear more from him in the future. We wish him the very best. Of course, we all hope—and our prayers are with him and with Elizabeth—for a full recovery for his wonderful wife Elizabeth. We will miss them both here. But our friendship endures, and I know that Senator EDWARDS, Elizabeth, and his family will be heavily involved in the course of our political life and our Democratic Party in the future.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

TOM DASCHLE

Mr. AKAKA. Mr. President, I rise to join my colleagues in saying thank you to a great senator, a great American, a wonderful leader, and a dear friend, Senator TOM DASCHLE of South Dakota. In Hawaiian we say, mahalo nui loa. ''Mahalo'' means thank you; ''nui'' means large; and ''loa'' means wide. It is used to convey profound and deep gratitude. I want to say mahalo nui loa to TOM DASCHLE for his great service to our country and to the Senate as an institution.

During his 26 years in the House and Senate, TOM DASCHLE has epitomized the ideal that we can disagree without being disagreeable. His prairie optimism and can-do attitude served his constituents well and served our Democratic caucus well.

I have always marveled at the fact that despite his responsibilities as majority leader and Democratic Leader, TOM DASCHLE always kept the needs and interests of South Dakotans as his top priority. He never lost sight of the people back home. Perhaps that is best reflected by his annual ''unscheduled driving'' tour, when he drives across his home state, visiting every county, with no staff and no schedule, just TOM, stopping to visit his constituents and hear what is on their minds.

As Senator DASCHLE has said, these visits remind him of where he came from, and why he came to Washington—to put the priorities of America first. For that, and for so much more, I say mahalo nui loa, TOM DASCHLE. Godspeed. God bless TOM and his wife Linda.

This comes from me and my wife Millie. Aloha.

Mr. LAUTENBERG. Mr. President, our colleague from Alabama was generous enough to step aside and permit me to make a few remarks. I deeply appreciate it.

I talked before about TOM DASCHLE. I also will discuss the rest of our colleagues who are leaving the Senate.

When the 109th Congress convenes in January, nine of our current colleagues will not be here. I take a few moments to pay tribute to them. Collectively, our colleagues have served in the Senate for 144 years. We will miss them.

FRITZ HOLLINGS

First of all, FRITZ HOLLINGS, the most senior Member leaving the Senate at this time, had a distinguished career in public service. It started in 1942, the same year I joined the Army. After he graduated from the Citadel and he received a commission from the U.S. Army, he served as an officer in the North African and European campaigns in World War II. He had a lot of time in combat. He got the Bronze Star and seven campaign ribbons.

In 1948 he was elected to the South Carolina House of Representatives. Ten years later, and still only 36, FRITZ HOLLINGS was elected Governor of South Carolina. As Governor, he showed his fearlessness and independence as a progressive southern Democrat, especially when he integrated Clemson University.

In 1966, FRITZ was elected to the Senate. I don't have time to list all of the things he has done in 30 years in the Senate or 56 years in public office, but early in his Senate career FRITZ focused on poverty and hunger that gripped the rural South and urban areas of the country. In 1968, he embarked on his now famous hunger tours. In 1970, he wrote about what he saw in a highly acclaimed book entitled ''The Case Against Hunger: A Demand for a National Policy.'' What a wonderful program that was.

He followed up by coauthoring a bill that created the special supplemental food program for Women, Infants and Children. We call it WIC.

In 1972, continuing this very active campaign of writing legislation, he wrote the National Coastal Zone Management Act, the Nation's first land use law designed to protect coastal wetlands. He played a pivotal role in establishing the National Oceanic and Atmospheric Administration, the Marine Mammal Protection Act, the Ocean Dumping Act, and the Fishery Conservation Management Act.

Perhaps he is best known for his tireless fight for fair trade and being a true fiscal conservative. Who can forget Gramm-Rudman-Hollings. I served with him many years on the Committee on the Budget and I can attest to his determination to put our Nation on the pay-as-you-go path rather than burdening future generations with escalating Federal deficits and debt.

On a parochial note, I thank the Senator from South Carolina on behalf of the people of New Jersey. After September 11, he made our ports safer by helping to get security funding for our

ports. FRITZ HOLLINGS gallantly laid out an inspiring vision for the future of passenger rail service in our country. Through it all, FRITZ HOLLINGS has always been a southern gentleman and a Senator's Senator.

FRITZ's remarks in committee and his speeches in the Senate have always been worth listening to even if some of us had difficulty deciphering them. He has been a true original and the Senate will be poorer for his departure.

I know he wants to spend more time with his beloved Peatsy, his four children, and his seven grandchildren.

FRITZ, we will miss you. I never stop being surprised when FRITZ HOLLINGS recalls things he did 20 or 40 years ago and recall them with fairly precise detail. He always has colorful language—except in places like the Senate—that attract attention and yet he completes his serious mission with humor, candor, and courage.

I ask unanimous consent a press release entitled ''38 Years in the Senate, 38 of His Greatest Hits'' be printed in the RECORD.

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

[Tuesday, Nov. 16, 2004]

38 YEARS IN THE SENATE, 38 OF HIS GREATEST HITS

WASHINGTON, DC.—In 38 years in the U.S. Senate, Fritz Hollings has compiled one of the most remarkable legislative records of any Senator in the last century. From his first days in office to his last, he has written legislation that has changed America. Following are 38 ways the nation will remember him:

1. Started the Women Infants Children (WIC) program, one of the most successful government health care measures ever undertaken. It has reduced infant mortality, low birth rates, and premature births. Today, WIC provides nutritional counseling and access to health services for low-income women and children in 10,000 nationwide clinics. Impetus for the program came from Senator Hollings' 1970 book ''The Case Against Hunger.''

2. Championed the Community Health Center Program to bring medical care to low-income Americans. In 1969, South Carolina opened one of the first community health centers in the nation, and today the centers nationally provide primary and preventive health services for 10 million patients in under-served communities.

3. Initiated the nationwide breast and cervical cancer screening program. Begun in 1990 as a project in South Carolina and five other states, the program quickly expanded to a highly successful national effort. Through the years, Senator Hollings also has led efforts to significantly boost funds for cancer research and to double the National Institutes of Health's budget.

4. The father of the Corporate Average Fuel Economy (CAFÉ) Standards, Senator Hollings wrote the law in 1975 forcing automakers to build more fuel efficient cars. Thirty years later, CAFÉ standards save more than 3 million barrels of oil per day.

5. Authored the Aviation Security Act, immediately after September 11th. It created the Transportation Security Administration and set up the screening system now underway for airport passengers. Always a strong believer in the need for security, Senator Hollings knew the aviation system, and America's economy, would not recover without government's help. He authored the legislation at age 80.

6. Authored the Maritime Security Act, also immediately following September 11th. Concerned for many years that ports and borders were the weak link in America's security system, he pushed the legislation through—the first ever aimed at increasing security at America's ports.

7. The father of the National Oceanic and Atmospheric Administration (NOAA), he established the agency in just his fourth year in office. He did it at a time when the ocean was not the popular topic it is today. In 2000, he created the U.S. Commission on Ocean Policy, to help Congress determine the future of the nation's oceans.

8. Authored the National Coastal Zone Management Act of 1972, which established federal policy for protecting coastal areas. It also authorized grants to states to establish and operate coastal zone management programs.

9. A friend of marine mammals, he wrote the legislation in 1972 to protect whales, dolphins, sea otters, and other mammals. It became the model for other countries.

10. Authored the Ocean Dumping Act of 1976, which extended federal authority over previously unregulated dumping of pollutants in the ocean. It banned dumping by U.S. vessels, or vessels sailing from a U.S. port.

11. Wrote the Oil Spill Bill in 1990, following the disaster of the Exxon Valdez. Senator Hollings led the Senate investigation of the oil spill, and pushed the legislation requiring more effective clean-up, and forced oil companies to use double-hull ships, which are less likely to have a spill.

12. At the forefront of promoting American technology, he created the Advanced Technology Program in the Commerce Department, which invests in high-risk research projects that promise big payoffs and widespread benefits to the nation.

13. Co-authored Gramm-Rudman-Hollings, the landmark legislation that broke budget gridlock in the mid-'80s. By making automatic spending cuts, it reversed 20 years of increased federal spending and cut tens of billions from the budget deficit.

14. Was the first Senator to decry the practice of looting Social Security, and made truth in budget reporting a priority. In 1990, his legislation required that the President and Congress, when reporting a budget, do not count Social Security surpluses to mask the true size of the deficit.

15. Has been the voice for fiscal sanity on the Senate floor for three decades, but too often the lone voice. Twenty-two years ago, he was the first to offer a budget freeze, and has offered them many times since. He has slammed tax-cutting Republicans for voodoo economics. He promised he would jump off the Capitol Dome if ever there was a balanced budget, but because too few listened to the only original member of the Senate Budget Committee, the country has a $600 billion deficit, and Senator Hollings retires without jumping.

16. The Senate's loudest voice on trade issues, he opposed NAFTA, GATT, and trade deals with China and Africa—all of which have sent massive jobs overseas. Time has proven him right. He opposed giving the President fast-track negotiating authority, constantly reminding his colleagues of Article 1, Section 8 of the Constitution: ''Congress shall have power to regulate commerce with Foreign Nations.''

17. Textile's best friend in the Senate, he has pressured every President since Lyndon Johnson to protect the industry so important to South Carolina.

18. Created the Manufacturing Extension Partnership Centers, in 1988 to help small manufacturers survive and grow. Now with 350 locations around the country, they annually help almost 20,000 companies. In honor of the Senator, federal legislation was passed to rename them the Hollings Centers.

19. A friend of the consumer, he created a competitive telecommunications industry through the Telecommunications Act of 1996, the first major rewrite of the Communications Act of 1934. He fought to ensure it provided new services to consumers at affordable rates.

20. Strengthened on-line privacy and gave Internet users control over their own personal data with legislation he authored in 2000 and 2002.

21. Gave millions of Americans freedom from telemarketers, by co-authoring the do-not-call list law in 2002, and the law that banned computer voiced telephone calls and restricted junk faxes in 1991. Calling it ''telephone terrorism'' Senator Hollings has given tens of millions of Americans quiet evenings at home.

22. Reined in the cable TV monopolies, as the driving force in the early 1990s for the Cable and Consumer Protections Act. Persistent service and rate abuses by TV cable companies around the country prompted Senator Hollings to lead the charge in giving the Federal Communications Commission authority to regulate basic cable TV rates and set minimum service standards.

23. Authored the 1990 Children's TV Act, requiring stations to carry educational programming for children and limiting the amount of commercials aired during children's programming.

24. Wrote laws to drug-test transportation employees and military enlistees. By requiring mandatory random drug and alcohol testing for safety-sensitive transportation employees, he has made America's roads safer. The law has allowed the military to confront drug abuse in uniform and has significantly increased overall readiness.

25. Was one of the first to re-build America's defense in the '80s, authoring amendments in the 1980 budget that provided the first significant increase in defense spending in the post-Vietnam era.

26. Saved the Department of Education through budget amendments, after Ronald Reagan took office with the express purpose of abolishing the Department. In the mid–1990s he stopped House Republicans from radically cutting student loan programs.

27. Authored energy conservation standards for federal buildings, during the 1970 energy crisis, resulting in millions of dollars of savings for taxpayers.

28. Led the efforts to fund innovative law enforcement programs, such as Community Oriented Policing Services (COPS) that put more than 100,000 police officers on the streets in 13,000 communities across the country.

29. To prevent crime that has hit American schools, he steered through the Senate his Safe Schools Initiative, putting police officers on patrol in schools nationwide.

30. Authored legislation to nail criminals involved in church burnings, by strengthening federal authority to prosecute them.

31. For the first time in American history, he got the full Congress to give its highest honor, the Congressional Gold Medal, to a farmer, gas attendant, maid, and preacher for the hardships they faced in desegregating South Carolina's schools. The medals were presented in 2004, the 50th anniversary of Brown v. Board of Education.

32. Champion for American Embassies across the world, he fought hard to ensure government preserves their historic significance.

33. The longest serving junior Senator in American history, he served 36 years as a

junior Senator before becoming South Carolina's Senior Senator at age 81 in 2003.

34. As governor of South Carolina from 1959–1963, he was the first modern southern governor to bring about economic and social progress. He started South Carolina's technical education system that now trains 235,000 students annually; balanced the state's budget for the first time in 65 years; obtained the state's first AAA bond rating; traveled 200,000 miles around the world to bring industry to South Carolina; and peacefully integrated Clemson University while other southern governors resisted the civil rights movement.

35. Was the Senator with no poll in his pocket, He gave unforgettable floor speeches, where he spoke his mind and told the truth. No one dared debate him, because they'd lose.

36. He brought different points of view to complex situations and identified solutions long before others recognized there were even problems.

37. Though many of his favorite bills never passed, he never stopped pushing for what he believed, He is still calling for tax hikes to pay for the War on Terrorism; legislation to protect children from violence on television; and a constitutional amendment permitting limits on campaign expenditures, preventing wealthy candidates and their friends from buying elections.

38. He leaves at the top of his game, writing meaningful legislation for America and working for his constituents until his last day in office.

Mr. LAUTENBERG. It is amazing to see how many things FRITZ HOLLINGS has touched in his life. Once again, he will be sorely missed.

JOHN BREAUX

Another dear friend from the south, JOHN BREAUX, senior Senator from Louisiana, probably the Senate's consummate deal maker. I don't think anyone in this Chamber has ever worked harder to bring the two parties together on taxes, on health care, and especially our two biggest entitlement programs, Social Security and Medicare.

He is the logical choice to chair the National Bipartisan Commission on the Future of Medicare and the cochair of the National Commission on Retirement Policy. He has always been an effective champion for Louisiana's oil and gas, agriculture, and tourism industries, which is why his constituents have sent him to Washington with 60, 70, or even 80 percent of the vote. He was only 28 when he first won a seat in the House in 1972. With 14 years in the House and 18 years in the Senate, he spent more than half of his entire life as a Member of Congress doing the public's mission.

We will miss his Cajun humor, his legislative savvy, and his tireless dedication of bringing Republicans and Democrats together for the good of all America.

BOB GRAHAM

Another esteemed colleague from the South, Senator BOB GRAHAM, the senior Senator from Florida, is clearly one of the State's most popular elected officials. He won two terms as State representative, two terms as a State senator, two terms as a Governor, three terms as a U.S. Senator, with a 9–9 record. For a short time he put his hat in the ring in the recent Presidential race. He had a 9–9 record of elections dating back 38 years.

Like Senator BREAUX, BOB GRAHAM has worked diligently to forge bipartisan solutions to the most pressing problems. He is a fiscal conservative, dedicated to strengthening and improving Social Security and Medicare. Bob Graham is the author of a comprehensive, bipartisan plan to restore the Everglades, a plan that created an unprecedented partnership among Federal, State, and local governments and private industries to reverse the damage done by fragile ''River of Grass'' decades of dredging, dumping, and destruction. He has fought hard to protect Florida's coastline from oil and gas exploration.

One of the things that made BOB GRAHAM so popular has been his determination to spend time working side by side with people he represents. Over 30 years he has worked 400 workdays. On those workdays—and most have seen him in costume—he has worked as a police officer, railroad engineer, construction worker, fisherman, garbage man. I don't think I would have taken all the jobs he did, but he did them wonderfully and endeared himself to his constituents. He was a factory worker, busboy, teacher. If BOB does not want to retire, I am sure he will be able to find some kind of work. He is experienced in so many fields.

JOHN EDWARDS

The senior Senator from North Carolina, JOHN EDWARDS, has streaked across the political firmament like a shooting star. Six years ago, he was a trial lawyer who won a Senate seat in his first try at elected office and 2 weeks ago he was very nearly elected Vice President.

JOHN EDWARDS, like TOM DASCHLE, was the first person in his family to graduate from college. His father worked in the textile mills. His mother held several jobs, working in a post office, running a furniture refinishing business. After he graduated from the University of North Carolina Law School, he put his formidable legal skill to work for ordinary people as a trial attorney. He was good at it. In 1997, he won the largest personal injury verdict in North Carolina history, $25 million, for a 9-year old girl injured by a swimming pool drain the manufacturer knew was faulty.

JOHN proved if there is injury or damage, take it to a jury of your peers. Let them make the judgment regarding careless operation of a piece of machinery or automobile. The damage is incalculable in terms of a monetary value. So JOHN EDWARDS did what he ought to do. He protected those who had recourse for terrible damages that they incurred.

JOHN knew what it was like for that little girl's parents I just talked about because he and his wife lost their 16-year-old son. His name was Wade. He died in a car accident.

When he got to the Senate, JOHN continued to fight for working-class Americans, and despite being a freshman Member, he was a principal author of a Patients' Bill of Rights bill which passed the Senate in June of 2001.

He also fought hard for his constituents, securing more than $250 million in disaster funds following Hurricane Floyd in September 1999.

I don't know what the future holds for JOHN. One looks at that face, and sees such a young man. He is only 51 years old, and to me that is like a child. But somehow or other I do not think we have seen the last of him.

Of course, his first task is to help his wife Elizabeth get through her bout with breast cancer. We send our prayers to both of them, for her quick and complete recovery. He and Elizabeth have the good wishes and prayers of each and every one of us here in the Senate.

Mr. President, I will talk about a couple of my friends on the Republican side.

DON NICKLES

I have had my differences with DON NICKLES. We both have served on the Budget Committee, and it is hard to believe that he, at his tender age, has been here for 24 years. He is still so youthful looking. As a matter of fact, the two Senators from Oklahoma at one point in time did not equal the age of one of the Senators from South Carolina. They are both very young. But he was so young when he came here in 1981. He was barely 32.

On the subject of age, if I might digress, after 30 years of business I never dreamed I was going to be here 24 years, Lord willing. And for my friends on the Republican side, don't count me out at the end of 24 years.

I worked with DON NICKLES for many years on the Budget Committee. He has been a passionate, articulate spokesman for conservative causes, but he has always been a good opponent, a gracious opponent. The Senate is going to miss his energy and his knowledge.

BEN NIGHTHORSE CAMPBELL

Another friend from the other side of the aisle is BEN NIGHTHORSE CAMPBELL, the senior Senator from Colorado. He is one of the true originals in the Senate. He is one of 44 chiefs of the Northern Cheyenne Tribe. He served our country in Korea. He is a renowned jewelry designer, athlete, trainer of champion quarter horses. He participated in the 1964 Olympics as a member of the U.S. Olympic judo team.

He was elected to the Colorado State legislature in 1982, serving for 4 years before coming to Washington. He has livened up the place with his string ties, beautiful jewelry, and his Harley Davidson motorcycles. And he has been our conscience when it comes to meeting our treaty obligations to Native Americans.

PETER FITZGERALD

PETER FITZGERALD, the junior Senator from Illinois, like me, came to the

Senate after a good business career. He has been here only for one term but in those 6 years he established a solid reputation as an independent Member, committed to doing what he thinks is right, even if it puts him at odds with other members of his party.

He and I serve on the Governmental Affairs Committee, and I have been impressed by his willingness to hold hearings on scandals and malfeasance in the mutual fund and insurance industries. Perhaps because of his business background, he understands the importance of effective oversight by the Federal Government.

I regret he is leaving. He has been a gentleman, and it is too bad that we do not have more like PETER FITZGERALD. He is a wonderful person to work with. He has got a ready smile, and he is a gentleman at all times.

I close my remarks by noting that these men have made remarkable contributions to our society, and all Americans should be grateful. I would tell those who are retiring, I retired 4 years ago, and I did not like it. So here I am. Perhaps there is hope for any of them who want to rejoin. If you want to come back, I am here to tell you it can be done. Just make sure that you get to keep your seniority.

Mr. President, I yield the floor and thank my colleagues for their indulgence while I made my remarks.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me say—this is probably the first and only time I have ever said this—I have been listening carefully to my friend from New Jersey, and I agree with everything he said.

I have had a chance to talk a little bit about some of these people who are retiring, and at some length about Senator NICKLES, and I certainly appreciate the Senator's remarks about him.

TRIBUTE TO AIR FORCE SECRETARY JAMES G. ROCHE

Mr. INHOFE. Mr. President, we have been paying a lot of tributes to retiring Members of the Senate, and I think it is appropriate to pay tribute to at least one of our retiring public servants, and I would like to do that right now for the Secretary of the Air Force, Dr. James G. Roche.

I know Secretary Roche has been attacked from time to time. That goes with the job. It is a tough job. He knew that when he came. I think we can put that aside and pay tribute for the things he has done that are not as controversial but have been good for the Air Force and for our country.

You have to keep in mind that Secretary Roche left a lucrative career in private life to take this job as Secretary of the Air Force. He brought a lot of savvy with him from his private business career. I remember so well when he was first confirmed, his first trip was to go with me to Tinker Air Force Base in Oklahoma. After visiting that base, he returned to Washington with Secretary Gibbs and immediately put in place a plan to revitalize the depots using the existing Air Force budget. This is something that previous administrations have never accomplished. They seemed to be more interested in letting the depots rust away.

Secretary Roche invested money, time, and industrial know-how into the depots, and he did it in a partnership arrangement where he actually stimulated the communities to pass very large bond issues to exercise the private participation. He started a program where depots were benchmarked off similar commercial enterprises and started informal competition that drove maintenance days down ever lower. He brought LEAN manufacturing processes to the depots and other similar commercial practices that revitalized the workforce, decreased the failure rates, raised readiness standards, and decreased overall costs at the depots.

I look at the record he had. In fiscal year 2003 alone, AMC reported that the mission-incapable aircraft part hours decreased by 37.6 percent, the percentage of hours grounded. It bettered the goal by 922,000 hours. The mission-incapable aircraft part incidents decreased by 23.4 percent, which bettered the goal by 4,400 incidents. Logistics response time was reduced 20.4 percent. Stockage effectiveness increased by 5.5 percent. It goes on and on.

His record is there. He has done a magnificent job at applying his business practices in making our scarce dollars in the military go a lot further.

I was very impressed with his focus on depots, but his ability to guide the Air Force through the troubled waters after 9/11 were equally impressive. He restructured the force and focused training to support new missions: homeland defense, renewed focus on Close Air Support, close partnering with the Army in joint operations and Space support to warfighters.

He expanded the role and support for special operations. He accelerated the delivery to the battlefield of Armed Predators and Global Hawks, bombers in support of close air support, tactics enabling engagement or the Time Sensitive Targets, networked Intelligence, Surveillance, and Reconnaissance, and advanced Combined Air Operations Center capabilities.

Secretary Roche and General Jumper have done a remarkable job. I remember, back in the late 1990s, after we downsized and downgraded and had done away with a lot of the modernization programs in our military under the previous administration, General Jumper had the courage to stand before our committee and say and admit we were going to have to do something about modernization, something about the F–22, something about the Joint Strike Fighter, because the Russians were making the SU series that was actually better than our best strike vehicles, which were the F–15s and F–16s. And this was done. This is the type of courage that came forth during Secretary Roche's administration.

The investigation into the tanker lease continues, and it will continue until all individuals who acted inappropriately are held accountable. That is appropriate. However, we must move forward on recapitalizing our tanker fleet, fighting the war on terrorism, and getting back to the business of supporting the warfighters, specifically, moving forward on confirmations of senior military leaders so our troops in the field have the leadership they deserve.

I think it is time to allow the investigations to find out who is guilty of wrongdoing. Yes, it was wrong to take the tanker deal to the Appropriations Committee and skip the authorizers. But that was fixed. We held hearings. We compromised, and it looks like we have killed the tanker deal. We have investigations underway, some complete, and those who committed crimes are going to pay for their crimes. So let's not overreach this subject and bring innocent men and women under public attack.

Let me say that Secretary Roche has been innovative. He has tirelessly pressed new ideas. I thank Secretary Roche for the very fine contributions he made to the U.S. Air Force and to the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

TRIBUTES TO RETIRING SENATORS

PETER FITZGERALD

Mr. SESSIONS. Mr. President, I want to share a few remarks about our friend and colleague PETER FITZGERALD. It has been a real honor for me to serve with him. We have had quite different backgrounds.

PETER grew up in suburban Chicago and attended very fine parochial schools. He attended Dartmouth College where he graduated cum laude with highest distinction majoring in Latin and Greek. He got his law degree from the University of Michigan and came from a very prominent family there.

He is a wonderful person, a person I got to know, although our backgrounds are different, I having grown up in south Alabama, the son of a country store owner, going barefoot and swimming in the creeks. We enjoyed talking with one another. He liked Bear Bryant, and we talked about a number of things.

One thing he shared with me on a number of occasions is his belief that there should be in government, in the business of the United States and the State governments, integrity. He talked with me about his recommendation to President Bush about a U.S. attorney appointment in Chicago. He wrestled with it and talked with me over a period of weeks about the fact

he believed that even if he chose any of the very fine candidates who had been discussed in Chicago, he would be choosing somebody from that area that people would think was not the best, was not independent, that they might be influenced by someone.

He had a growing feeling that he should choose someone from outside the area. It is an usual thing to do, but that is what he did. He searched the country over and chose U.S. Attorney Fitzgerald, a nonrelative, I believe, who tried some of the biggest terrorist cases in New York. That is who he recommended and that is who he put there. Why? Because he wanted the best prosecutor with the best background, with the most integrity, and total independence to do the right thing there. That indicated to me just how serious he was about this issue.

When he ran for the Senate, he was in the banking business, an attorney in the banking business. He promised he would not involve himself and would recuse himself from decisions dealing with banking. People said that was not necessary. Others did not do that. He said he thought it was the appropriate thing to do, and he adhered to that the entire time he was here, recusing himself on a number of such issues.

He chose the higher standard, the road less traveled. He did not like fraud, corruption, and abuse. As a member of the Consumer Affairs Subcommittee of the Commerce Committee, he took a key role in the investigation of Enron and the abuses that occurred there.

He was a constant and strong opponent of no-bid contracts. He saw a lot of those in Illinois. He did not like it, and he spoke out against it in a very strong way. Particularly, there was a matter involving Springfield and a major construction contract. He feared the good old boys, those with influence and inside word, would be the beneficiaries of those contracts rather than the taxpayers. He thought it should be bid on a professional basis, and he battled very hard for that. He did not like and does not like cronyism, and he spoke out against it.

His commercial banking experience led him to study the behavior of the stock markets and brokerage firms in the Federal thrift plan, which he admired greatly, saying it was the most efficient and best plan for investors that he was aware of because the fees and costs were so low.

He, therefore, was a champion of integrity and full disclosure of fees in the brokerage business and spoke out aggressively in favor of that. Why did he say that? Because he thought insiders were taking too big a piece of the pie and if that money, instead of being paid out in fees, sometimes never seen by the investors, had been reinvested in the stocks or mutual funds, that the investor would have ended up with a lot more money over a lifetime, and he had charts to show it.

He spoke out against that special interest group because he believed it was the right thing to do. He believed in representing the consumers, and those are the people who make America go.

He has a wonderful wife Nina who attended Smith College, the London School of Economics, and Harvard Law School. They have one son, Jake. He has chosen to spend more time with them. We can certainly understand his decision to do that.

I also thank him for his service to the people of the United States. He did so in this single term with integrity, courage, decency, and a great spirit of cooperativeness. I have enjoyed serving with him, as did all of us in this body, and I wish him Godspeed.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 3020 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

N O T I C E

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR SATURDAY, NOVEMBER 20, 2004

Mr. SESSIONS. Mr. President, on behalf of the majority leader, Dr. BILL FRIST, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m. on Saturday, November 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will reconvene to consider the Omnibus appropriations conference report. It is expected that the conference report will be filed tonight and that the House will begin consideration of that measure Saturday morning. We will then return to business at 11 a.m. with the hope that the conference report will be available shortly thereafter.

In addition, the Senate will consider the intelligence reform conference report if that is available. Senators should expect votes tomorrow, and we will notify Members as to when the first vote is expected.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:24 p.m., adjourned until Saturday, November 20, 2004, at 11 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

FOREIGN SERVICE NOMINATIONS BEGINNING WITH RALPH L. BOYCE, JR. AND ENDING WITH ROBERT J. WHIGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ROBERT M. CLAY AND ENDING WITH MARCIA L. NORMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004.

Daily Digest

HIGHLIGHTS

Senate agreed to the conference report to accompany H.R. 1047, Miscellaneous Trade and Technical Corrections Act.

Senate agreed to the conference report to accompany H.R. 1350, Individuals with Disabilities Education Act.

The House agreed to the conference report to accompany H.R. 1350, Individuals with Disabilities Education Improvement Act of 2004.

Senate

Chamber Action

Routine Proceedings, pages S11515–S11594

Measures Introduced: Fourteen bills and seven resolutions were introduced, as follows: S. 12, 3008–3020, S. Res. 474–478, and S. Con. Res. 150–151. **(See next issue.)**

Measures Reported:

S. 2393, to improve aviation security, with amendments. (S. Rept. No. 108–417)

S. 2541, to reauthorize and restructure the National Aeronautics and Space Administration, with amendments. (S. Rept. No. 108–418)

S. 1153, to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, with an amendment in the nature of a substitute. (S. Rept. No. 108–420)

S. 1380, to distribute universal service support equitably throughout rural America.

S. 1963, to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services, with an amendment in the nature of a substitute.

S. 2145, to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, with an amendment in the nature of a substitute.

S. 2281, to provide a clear and unambiguous structure for the jurisdictional and regulatory treatment for the offering or provision of voice-over-Internet-protocol applications, with an amendment in the nature of a substitute.

S. 2505, to implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM service, with an amendment.

S. 2644, to amend the Communications Act of 1934 with respect to the carriage of direct broadcast satellite television signals by satellite carriers to consumers in rural areas, with an amendment in the nature of a substitute.

S. 2820, to ensure the availability of certain spectrum for public safety entities by amending the Communications Act of 1934 to establish January 1, 2009, as the date by which the transition to digital television shall be completed, and for other purposes, with amendments. **(See next issue.)**

Measures Passed:

National Adoption Month: Senate agreed to S. Res. 474, to express support for the goals of National Adoption Month by promoting national awareness of adoption, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children. **Pages S11520–23**

Condemning Laos Human Rights Abuses: Senate agreed to S. Res. 475, to condemn human rights abuses in Laos. **Pages S11554–55**

Osage Tribe: Senate passed H.R. 2912, to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government, clearing the measure for the President. **Page S11566**

Snake River Water Rights Act: Senate passed S. 2605, to direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, after agreeing to the committee amendment in the nature of a substitute. **Pages S11566–72**

Native American Capital Formation and Economic Development Act: Senate passed S. 519, to determine the feasibility of establishing an Indian Tribal Development Corporation, after agreeing to the committee amendment in the nature of a substitute. **Pages S11572–77**

Tribal Parity Act: Senate passed S. 1530, to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, after agreeing to the committee amendments. **Page S11577**

Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act: Senate passed S. 1996, to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program, after agreeing to the committee amendment in the nature of a substitute. **Pages S11577–79**

Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act: Senate passed S. 1438, to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S11579–84**

Craig (for Campbell) Amendment No. 4068, to make clear that land transferred under the bill shall remain part of the Lake Roosevelt National Recreation Area. **Page S11584**

Trust Fund Lawsuit: Committee on Indian Affairs was discharged from further consideration of S. Res. 248, expressing the sense of the Senate concerning the individual Indian money account trust fund lawsuit, and the resolution was then agreed to, after agreeing to the following amendment proposed thereto: **Page S11584**

Craig (for Campbell) Amendment No. 4069, in the nature of a substitute. **Page S11584**

Craig (for Campbell) Amendment No. 4070, to amend the preamble. **Page S11584**

Harmful Algal Bloom Authorization: Senate passed S. 3014, to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998. **Pages S11584–86**

Training for Realtime Writers Act: Senate passed S. 480, to provide competitive grants for training court reporters and closed captioners to meet requirements for real-time writers under the Telecommunications Act of 1996. **Pages S11586–87**

Recognizing Battle of the Bulge 60th Anniversary: Senate passed H.J. Res. 110, recognizing the 60th anniversary of the Battle of the Bulge during World War II, clearing the measure for the President. **(See next issue.)**

National Prematurity Awareness Month: Senate agreed to S. Res. 476, supporting the goals, activities, and ideals of National Prematurity Awareness Month. **(See next issue.)**

Enrollment Correction: Senate passed H. Con. Res. 524, directing the Clerk of the House of Representatives to make certain corrections to the enrollment of H.R. 1350. **(See next issue.)**

United States Vision in the Middle East: Senate agreed to S. Res. 477, expressing the sense of the Senate in support of a reinvigorated United States vision of freedom, peace, and democracy in the Middle East. **(See next issue.)**

Irish Peace Process Cultural and Training Program Act: Committee on Foreign Relations was discharged from further consideration of H.R. 2655, to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998, after agreeing to the following amendment proposed thereto:

Sessions (for Lugar) Amendment No. 4071, in the nature of a substitute. **(See next issue.)**

United States District Court Authority: Committee on the Judiciary was discharged from further consideration of S. 2873, to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Sessions (for Leahy) Amendment No. 4072, to provide for additional places of holding court. **(See next issue.)**

National Sex Offender Database Registration: Committee on the Judiciary was discharged from further consideration of S. 2154, to establish a National sex offender registration database, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Sessions (for Dorgan) Amendment No. 4073, in the nature of a substitute. **(See next issue.)**

Displaced Staff Members: Senate agreed to S.Res.478, relating to displaced staff members of Senators and Senate leaders. **(See next issue.)**

109th Congress Convening Date: Senate agreed to H.J. Res. 111, appointing the day for convening of the first session of the One Hundred Ninth Congress, clearing the measure for the President. **(See next issue.)**

Miscellaneous Trade and Technical Corrections Act—Conference Report: By unanimous-consent, Senate agreed to the conference report to accompany H.R. 1047, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, clearing the measure for the President. **Pages S11516–20, S11523–33, S11555**

During consideration of this measure today, Senate also took the following action:

By 88 yeas to 5 nays (vote No. 214), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the conference report. **Page S11520**

Individuals with Disabilities Education Act—Conference Report: Senate agreed to the conference report to accompany H.R. 1350, to reauthorize the Individuals with Disabilities Education Act, clearing the measure for the President. **(See next issue.)**

Nominations Discharged: Committee on Foreign Relation was discharged from further consideration of the following nominations which were then placed on the Executive Calendar:

Routine lists in the Foreign Service. **Page S11594**

Messages From the House: **(See next issue.)**

Enrolled Bills Presented: **(See next issue.)**

Executive Communications: **(See next issue.)**

Executive Reports of Committees: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Statements on Introduced Bills/Resolutions: **(See next issue.)**

Additional Statements: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Record Votes: One record vote was taken today. (Total—214) **Page S11520**

Adjournment: Senate convened at 9:31 a.m. and adjourned at 8:24 p.m., until 11 a.m., on Saturday, November 20, 2004 (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11594.)

Committee Meetings

(Committees not listed did not meet)

IMPROVISED EXPLOSIVE DEVICES

Committee on Armed Services: Committee met in closed session to receive a briefing regarding the nature of the evolving Improvised Explosive Devices threat from Brigadier General Joseph Votel, USA, Director of the Department of Defense Improvised Explosive Device Task Force, who was accompanied by several of his associates.

BUSINESS MEETING

Committee on Armed Services: Committee ordered favorably reported six nominations in the Army and Air Force.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the nominations of Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission, Ernest J. Wilson III, of Maryland, to be a Member of the Board of Directors of the Corporation for Public Broadcasting, Claudia Puig, of Florida, to be a Member of the Board of Directors of the Corporation for Public Broadcasting, Gay Hart Gaines, of Florida, to be a Member of the Board of Directors of the Corporation for Public Broadcasting, Harold Jennings Creel, Jr., of South Carolina, to be a Federal Maritime Commissioner, James S. Simpson, of New York, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation, and sundry nominations for promotion in the U.S. Coast Guard.

House of Representatives

Chamber Action

Measures Introduced: 26 public bills, H.R. 5393–5418; and; 8 resolutions, H.J. Res. 114; H. Con. Res. 524–527, and H. Res. 863–865 were introduced. **Pages H10078–79**

Additional Cosponsors: **Pages H10079–80**

Reports Filed: Reports were filed today as follows:

H.R. 1662, to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, amended (H. Rept. 108–785);

H.R. 2933, to amend the Endangered Species Act of 1973 to reform the process for designating critical habitat under that Act, amended (H. Rept. 108–786);

H.R. 5104, to amend the Marine Mammal Protection Act of 1972 to authorize appropriations for the John H. Prescott Marine Mammal Rescue Assistance Grant Program (H. Rept. 108–787);

H.R. 5134, to require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, amended (H. Rept. 108–788);

H.R. 2801, to establish a digital and wireless network technology program, amended (H. Rept. 108–789, Pt. 1);

H.R. 3283, to improve recreational facilities and visitor opportunities on Federal recreational lands by reinvesting receipts from fair and consistent recreational fees and passes, amended (H. Rept. 108–790, Pt. 1);

H.R. 2440, to improve the implementation of the Federal responsibility for the care and education of Indian people by improving the services and facilities of Federal health programs for Indians and encouraging maximum participation of Indians in such programs, amended (H. Rept. 108–791, Pt. 1);

Conference report to accompany H.R. 4818, an act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes (H. Rept. 108–792). **Pages H10077–78**

Rule for consideration of suspensions: The House agreed to H. Res. 859, providing for consideration of motions to suspend the rules, by voice vote. **Pages H10003–05**

Individuals with Disabilities Education Improvement Act of 2004—Conference Report: The House agreed to the conference report to accompany H.R. 1350, to reauthorize the Individuals with Disabilities Education Act, by a yea and nay vote of 397 yeas to 3 nays, Roll No. 537. **Pages H10006–22**

Agreed to H. Con. Res. 524, authorizing a technical correction in the enrollment of the bill. **Page H10022**

H. Res. 858, the rule providing for consideration of the conference report, was agreed to by voice vote. **Page H10010**

Suspensions: The House agreed to suspend the rules and pass the following measures:

American History and Civics Education Act of 2004: H.R. 5360, amended, to authorize grants to establish academies for teachers and students of American history and civics; **Pages H10023–24**

Directing the Secretary of the Senate to make corrections in the enrollment of S. 150: S. Con. Res. 146, to direct the Secretary of the Senate to make corrections in the enrollment of the bill S. 150; **Pages H10024–25**

Internet Tax Nondiscrimination Act: S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act—clearing the measure for the President; **Pages H10025–29**

Amending title 5, U.S. Code, regarding Thrift Savings Plans: H.R. 4324, amended, to amend title 5, United States Code, to eliminate the provisions limiting certain election opportunities available to individuals participating in the Thrift Savings Plan; **Pages H10033–34**

Agreed to amend the title so as to read: to amend chapter 84 of title 5, United States Code, to provide for Federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time. **Page H10034**

Comprehensive Peace in Sudan Act of 2004: S. 2781, amended, to express the sense of Congress regarding the conflict in Darfur, Sudan, to provide assistance for the crisis in Darfur and for comprehensive peace in Sudan; **Pages H10034–42**

YMCA Retirement Fund: H.R. 5365, to treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986; and **Pages H10042–44**

Amending the Social Security Act with regard to Medicare part B premiums: S. 2618, to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for

qualifying individuals through September 2005—clearing the measure for the President.

Pages H10053–54

Suspensions—Proceedings Postponed: The House began consideration of the following measures under suspension of the rules. Further proceedings were postponed.

Recognizing the Boy Scouts of America: H. Res. 853, recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States; and **Pages H10029–33**

Promoting the development of the emerging commercial human space flight industry: H.R. 5382, to promote the development of the emerging commercial human space flight Industry. **Pages H10045–53**

Recess: The House recessed at 2:49 p.m. and reconvened at 7:28 p.m. **Page H10053**

Petrified National Forest Boundary Adjustment: The House agreed to take from the Speaker's table and agree to the Senate amendment to H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona. **Pages H10054–55**

Visiting Nurses Association Week: The House agreed to take from the Speaker's table and agree to S. Con. Res. 8, expressing the sense of Congress that there should be established a National Visiting Nurses Association Week. **Page H10055**

Donald Brotzman Post Office Building Designation Act: The House agreed to discharge the Committee on Government Reform from consideration of and pass H.R. 5370, to designate the facility of the United States Postal Service located at 4985 Moorhead Avenue in Boulder, Colorado, as the ''Donald G. Brotzman Post Office Building''. **Page H10055**

Honoring the life of Leroy Gordon Cooper, Jr.: The House agreed to discharge the Committee on Science from consideration of and agree to H. Res. 847, honoring the life of astronaut Leroy Gordon Cooper, Jr. **Pages H10055–56**

Recess: The House recessed at 9:53 p.m. and reconvened at 12:18 a.m. **Page H10071**

Senate Message: Message received from the Senate today appears on pages H10005–06.

Senate Referrals: S. 1217 was referred to the Committee on Energy and Commerce; and S. Con. Res. 123 and S. Con. Res. 149 were held at the desk.

Pages H10006, H10072

Quorum Calls—Votes: One yea and nay vote developed during the proceedings of today and appears on page H10022. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 12:19 a.m.

Committee Meetings

No committee meetings were held.

COMMITTEE MEETINGS FOR SATURDAY, NOVEMBER 20, 2004

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings are scheduled.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

11 a.m., Saturday, November 20

Senate Chamber

Program for Saturday: Senate will be in a period of morning business. Also, Senate expects to consider the Omnibus Appropriations Conference Report and the National Intelligence Reform Conference Report when available.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Saturday, November 20

House Chamber

Program for Saturday: To be announced.

(Senate proceedings for today will be continued in the next issue of the Record.)

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