CONDEMNING TERRORIST ATTACKS IN SHARM EL-SHEIKH, EGYPT, ON JULY 23, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 384) condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005, and for other purposes.

The Clerk read as follows:

H. Res. 384

Whereas on July 23, 2005, a series of explosions at tourist facilities in Sharm el-Sheikh, Egypt, planned and carried out by terrorists, resulted in the death of scores of civilians and the injury of hundreds of others;

Whereas the people of Egypt have been subjected to several other terrorist deadly attacks over the past year;

Whereas President George W. Bush expressed the solidarity of the people and Government of the United States with the people and Government of Egypt during his visit to the Embassy of Egypt; Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest terms the terrorist attacks on Sharm el-Sheikh, Egypt, and other terrorist attacks directed against Egypt;

(2) expresses its condolences to the families and friends of those individuals who were killed in the attacks and expresses its sympathies to those individuals who have been injured;

(3) joins with President George W. Bush in expressing the solidarity of the people and Government of the United States with the people and Government of Egypt as they recover from these cowardly and inhuman attacks; and

(4) expresses its readiness to support the Egyptian authorities in their efforts to bring to justice those individuals responsible for the recent attacks in Egypt and to pursue, disrupt, undermine, and dismantle the networks which plan and carry out such attacks.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. Ros-Lehtinen) and the gentleman from California (Mr. Lantos) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. Ros-Lehtinen).

Ms. ROS-LEHTINEN. 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. 384.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is highly regrettable that the House must once again be in the position of having to express its outrage at yet another terrorist incident. Again, that incident is linked to a terrible distortion or perversion of Islam, a perversion that resulted in the killing of scores of Egyptians and their foreign guests, including an American, at Sharm el-Sheikh last weekend.

Two weeks ago we were sharing in the loss of scores of British citizens after the treacherous attacks in London. Today through this resolution we share in the mourning of Egyptians. Our feeling of sympathy is common to both peoples who share with us, most of all, our humanity, and whom we mourn just as we mourn all others who are lost in terrorists attacks around the world.

Despite our differences with certain policies pursued by the Government of Egypt, the killing of innocents must be strongly condemned, and we stand ready to support Egyptian authorities in bringing to justice those responsible for the recent attacks. We must unite with the Government and the people of Egypt to help fight a common enemy.

Mr. Speaker, I reserve the balance of my time.
education, improved health, economic development, and political reform. But now is not the time to debate those issues. Now is the time to defeat and to destroy the terrorists and those who have created them.

Today, Mr. Speaker, we stand as one with the Egyptian people and the Egyptian Government in opposing and rejecting the violent ideology of extremist Islamic hate of which Egypt has been the latest victim. I support this resolution strongly. I urge all of my colleagues to do so.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. Tom Davis), the distinguishing chairman of the House Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, last Saturday July 23, 2005, was a dreadful day for the entire civilized world. The multiple bombings in the Egyptian city of Sharm el-Sheikh that killed dozens constituted the deadliest act of terrorism in Egypt's history.

I want to assure the victims of the attack, their families, and all Egyptian people that the House of Representatives and the American people stand with them during this time of loss.

As we know all too well, terrorists remain committed to senseless killing of innocent people. Their evil must be defeated. The American attacks would ram a pick-up truck packed with 660 pounds of explosives into a hotel is just the most recent demonstration of the viciousness of these killers.

Last weekend's attack is not an isolated incident. A suicide bomber exploded a bomb in a Cairo market on April 7 this year, killing three, including one American. On April 30, two women fired several gunshots into a tour bus in Cairo wounding seven people. And on July 7, Egypt's Ambassador to India, Dr. Ihab al-Sharif, was kidnaped and killed by a group associated with al Qaeda.

The July 23 attack is a heartbreaking reminder of the human toll in the war on terror, but it will only serve to steel the resolve of America, Egypt, and our allies. The U.S. Government will continue its cooperation with Egyptian President Hosni Mubarak to track down the terrorists involved in these attacks. America and our allies do not distinguish between terrorist acts aimed at interrupting the Israeli-Palestinian appeals process, those attacking those in the new Iraqi government, or those that result in the murder of innocent sightseers in Sharm el-Sheikh.

Mr. Speaker, as this legislation resolves all to do, I am proud to join President Bush in expressing the solidarity of the American people with the Egyptian people in the aftermath of the July 23 attacks. I strongly support House Resolution 384.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Florida (Mr. Wexler), a member of the Committee on International Relations.

Mr. WEXLER. Mr. Speaker, I want to thank the distinguished chairman of the Committee on International Relations, the gentleman from California (Mr. Lantos), for yielding me this time; and I would first like to associate myself with both his remarks and the remarks of the gentlewoman from Florida (Ms. Ros-Lehtinen) as they very aptly expressed the sentiments of the American people in regard to the most recent attacks in Egypt.

The attacks in Sharm el-Sheikh were unconscionable acts of tragedy and terror. At this difficult time, the American people stand shoulder to shoulder with the people of Egypt in condemning these reprehensible and senseless acts. As partners in the war against terror, the United States and Egypt must work closely with the Egyptian authorities against al Qaeda and the desire for security and peace.

In the past decade, Sharm el-Sheikh has served as an embodiment of hope for the future of the Middle East. It has been a beacon of hope for Israelis and Europeans and for people worldwide, and the site of high-level peace talks regarding the Arab-Israeli conflict and the future of Iraq. It is my hope that Sharm el-Sheikh will continue to serve as the hope for peace, irrespective of this tragic event. This is the only way to ensure that the victims of this atrocity will not have died in vain.

I join my colleagues in condemning these horrific acts, expressing condolences to the families of those lost, and reaffirming the long-standing partnership between the United States and Egypt. The gentleman from California (Mr. Lantos) very eloquently and aptly said: "At such a time, it is not the time for debate regarding policy. It is a time for humanity to come together in the quest for the victory of freedom and democracy."

It would be naive, however, Mr. Speaker, not to acknowledge that these attacks come in a political context. And I would hope, as a result of these attacks, that Egypt continue its efforts, as it has done in the past year, in returning its ambassador to Israel and implementing the QIZ legislation requiring and promoting joint investment between business people in Egypt and Israel for the betterment of Egyptian workers, that Egypt progress on a path of both political and economic reform. That ultimately will provide the victory of freedom and democracy that both Americans and Egyptians justly deserve and the terrorists that committed these heinous acts most definitely oppose.

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

In this global struggle between chaos and civilization, there is no doubt in my mind that civilization will prevail; yet every time we are confronted with a tragedy, whether it be London or Sharm el-Sheikh, in Jerusalem or elsewhere, we must express our solidarity with the victims, with the survivors, and with the governments that stand with us against global terrorism.

Our support for the Egyptian people and for the government of Egypt is offered without any reservation or qualification. This House is united in expressing our sympathy and our condolences.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for time; but before yielding back my time, I would like to express my personal best wishes to Danielle Simonetta, who is back here, and who will end her exceptional service with the House this week. With her warm good spirits and a depth of managerial skills, she has conducted the legislative agenda on this side of the aisle, frequently under tremendous pressure from many quarters, though not, of course, from Members.

I know I speak for Members on both sides of the aisle when I say, Thank you, Danielle. We are going to miss you, and we welcome you back to our congressional family at any time.

Mr. ISSA. Mr. Speaker, I rise today in support of H. Res. 384, "Condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005."

I wish to express my condolences to the families of those killed in last week's terrorist attacks, and my sympathy to those injured in the bombings. I would also like to join with President George W. Bush in expressing the solidarity of the people and government of the United States with the people and government of Egypt. The United States stands ready to support the Egyptian authorities in their efforts to bring to justice those responsible for these cowardly attacks.

These attacks, again, make plain the fact that the Global War on Terrorism is not a way of the West against the Muslim world but a war being fought between those who value freedom and democracy and respect for human rights and those who kill innocent civilians.

Egypt is a friend and ally of the United States. The people of the United States stand by the people of Egypt at this time of tragedy.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Res. 384. This resolution condemns the vicious terrorist attacks in Sharm el-Sheikh, Egypt on July 23, 2005. Those tragic blasts left 88 innocent civilians dead and 119 other injured and were the result of a coordinated plan to build fear in the hearts of the Egyptian people and rob them of their liberty. These criminals attempted to pervert by individuals who claim they are acting in the name of Islam. Nothing could be further from the truth. Islam is a religion of peace and tolerance. It is an insult to Muslim Americans and Muslims worldwide to suggest that those who commit these acts have done so in the name of Islam. Nothing could be further from the truth. Islam is a religion of peace and tolerance. It is an insult to Muslim Americans and Muslims worldwide to suggest that those who commit these acts have done so in the name of Islam. Nothing could be further from the truth.
When I talk to Muslim leaders in my district they tell me that the only good thing to come out of these attacks is the raised awareness of their religion and their resulting ability to educate many for the first time on the true tenants of their faith. I am proud of the many Muslims in New Jersey for the work they do everyday to promote peace and religious tolerance. I look forward to a day when all Americans will know the true values of Islam, and understand the hateful and perverted "faith" of those who would commit these deadly attacks.

Terrorism sadly has become a tragic trend in our day and age. The targeting of innocent civilians in brutal attacks throughout the world, in London, New York, Washington, Madrid, the Middle East, and the latest attacks in Sharm El-Sheikh, Egypt all make us a little less secure as human beings. These attacks cannot be allowed to continue. They rob us all of our life and liberty. We cannot let terrorism be allowed to continue. They rob us all of our life and liberty. We cannot let terrorism become a commonplace aspect of our lives. Consequently, I support this resolution to affirm the solidarity of all Americans with the Egyptian people, and condemn these terrorists attacks.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 384.

The question was taken.

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

Ms. ROS-LEHTINEN. 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on certain questions previously postponed. Votes will be taken in the following order:

- The previous question on House Resolution 387, by the yeas and nays;
- The previous question on House Resolution 387, if ordered;
- The previous question on H.R. 3293, by the yeas and nays;
- The previous question on H.R. 3293, if ordered;
- The previous question on S. 45, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 3293, UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 387 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 226, nays 202, not voting 5, as follows:

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<tr>
<th>Yeas</th>
<th>Nays</th>
<th>Not Voting</th>
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<tr>
<td>226</td>
<td>202</td>
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The question was taken; and the ayes appeared to have it.

The SPEAKER pro tempore (Mr. JOHNSON of Illinois). Mr. Speaker, on rollcall No. 432 I was unavoidably detained.

Mr. BONILLA changed his vote from "yea" to "nay." So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 432, I was chair of a subcommittee and had to complete the Record. Had I been present, I would have voted "yea."

Mr. ISSA. Mr. Speaker, on rollcall No. 432, I was a chair of a subcommittee and had to complete the Record. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.
The Clerk read the title of the Senate bill. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 544, on which the ayes and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yes 428, nays 3, not voting 2, as follows:  

[Roll of No. 434]  

YEAS—428  

[Names of Members Not Voting]-5  

No roll call vote was taken.  

ANNOUNCEMENT BY THE SPEAKER pro tempore  

The SPEAKER pro tempore (Mr. FOLEY) (in the Clerk's office). Members are advised that 2 minutes remain in this vote.

Mr. ISSA. Mr. Speaker, on rollcall No. 433, So the resolution was agreed to.

The Clerk read the title of the Senate bill. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 544, on which the ayes and nays are ordered.

This will be a 5-minute vote.

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[Names of Members Not Voting]-5  

No roll call vote was taken.  

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[Roll of No. 434]  

YEAS—428  

[Names of Members Not Voting]-5  

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This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yes 428, nays 3, not voting 2, as follows:  

[Roll of No. 434]  

YEAS—428  

[Names of Members Not Voting]-5  

No roll call vote was taken.  

ANNOUNCEMENT BY THE SPEAKER pro tempore  

The SPEAKER pro tempore (Mr. FOLEY) (in the Clerk's office). Members are advised that 2 minutes remain in this vote.

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This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yes 428, nays 3, not voting 2, as follows:  

[Roll of No. 434]  

YEAS—428  

[Names of Members Not Voting]-5  

No roll call vote was taken.  

ANNOUNCEMENT BY THE SPEAKER pro tempore  

The SPEAKER pro tempore (Mr. FOLEY) (in the Clerk's office). Members are advised that 2 minutes remain in this vote.
The SPEAKER pro tem. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 45, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device and there were—yeas 429, nays 0, as follows:

[Vote totals here]

The result of the vote was announced by the Clerk and the House adjourned at 12:15 p.m. to reassemble tomorrow at 2 p.m.
UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. ENGLISH of Pennsylvania. Madam Speaker, pursuant to House Resolution 387, I call up the bill (H.R. 3283) to amend the Trade Agreements Act of 1954, as amended, in order to further enhance resources to enforce United States trade rights, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 387, the bill is considered as read.

The text of H.R. 3283 is as follows:

forthcoming.

Given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress recognizes that the world trading system’s ability to prevent and redress trade distortions and to provide a level playing field for world trade is critical to the functioning of the world economy and the global trading community. The United States Trade Representative should, therefore, use all the authorities in his or her possession to prevent and remedy trade distortions and to ensure a level playing field for world trade.

The text of H.R. 3283 is as follows:

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

This Act may be cited as the "United States Trade Rights Enforcement Act".

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they have been injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty laws, as the Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks explicit legal authority to do so;

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting countervailing and antidumping duties from new shippers who default on their bonding obligations;

(4) this behavior may detract from the ability of United States companies to recover the costs of the lost business that results from the inability of the nonmarket economy countries to comply with their international trade obligations;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine the appropriate policy to respond to the problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress recognizes that the world trading system’s ability to prevent and redress trade distortions and to provide a level playing field for world trade is critical to the functioning of the world economy and the global trading community. The United States Trade Representative should, therefore, use all the authorities in his or her possession to prevent and remedy trade distortions and to ensure a level playing field for world trade.

In addition, Japan’s policy of intervening to influence the value of its currency and its prohibitive barriers to trade create distortions that disadvantage United States exporters;

(20) in addition, Japan’s policy of intervening to influence the value of its currency and its prohibitive barriers to trade create distortions that disadvantage United States exporters;

(21) this adverse impact is magnified by Japan’s role in the global marketplace, combined with its chronic surplus, weak economy, deflationary economy, low growth rate, and lack of consumer spending;

(22) accordingly, the United States Trade Representative should consider additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to compete effectively in the marketplace with which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671a(a)(1)) is amended by inserting "including a nonmarket economy country" after "country" each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDIES.—Section 712 of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: "With respect to the People’s Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (1), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as yardsticks or benchmarks. When applying such methodologies, the administering authority should adjust such prevailing terms and conditions before considering the using industries and conditions prevailing outside China."

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 731, 733, or 735 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.


(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(ii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any alternative methods that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(1) the suspension of the collection of antidumping duties on imports from new shippers; and
(B) burdens imposed on legitimate trade and commerce by the suspension of availability of bonds to new shippers by reason of the suspension under subsection (a).

(c) COMMISSION PROCEEDINGS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 90 days after the date of this Act, the Secretary of the Treasury, in consultation with the Commissioner of the Bureau of Customs and Border Protection and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing the major problems experienced in the collection of duties, including fraudulent activities intended to avoid payment of duties, with an estimate of the total amount of uncollected duties for the previous fiscal year and a breakdown across product lines describing the reasons duties were uncollected.

(2) RECOMMENDATIONS.—The report shall make recommendations on additional actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise under the supervision of the copyright owners are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has submitted its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has implemented the program for enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute “harm to the public interest” and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure effective enforcement of intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the State Administration for Industry and Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly increased civil and criminal enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has provided the U.S. National People's Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property rights laws against Internet piracy, including through enforcement at Internet cafes.

(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) Dispute Settlement Proceedings in WTO.—If the Chinese Government takes steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(1) SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE WITH THE PEOPLE’S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) INTELLECTUAL PROPERTY RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the People’s Republic of China has taken the following steps:

(A) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by more than a level that significantly decreases the current amount of infringing products for sale within China.

(B) China’s Supreme People’s Court, Supreme People’s Procuratorate, and Ministry of Public Security have issued draft guidelines for public comment to ensure the timely referral of intellectual property rights violations from administrative bodies to criminal prosecution.

(C) The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(D) The Chinese Ministry of Public Security has established a leading group responsible for overall research, planning, and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(E) The Chinese Government has established a bilateral intellectual property rights enforcement working group to cooperate with the United States whose members will work with enforcement activities to reduce cross-border infringing activities.

(F) The Chinese Government has aggressively countered movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise under the supervision of the copyright owners are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has submitted its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has implemented the program for enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute “harm to the public interest” and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure effective enforcement of intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the State Administration for Industry and Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly increased civil and criminal enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has provided the U.S. National People’s Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.

(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) Dispute Settlement Proceedings in WTO.—If the Chinese Government takes steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant backlog of distribution license applications and by preparing a regulatory guide for businesses seeking to acquire distribution rights that expands on the guidelines announced in April 2005.

(2) China’s Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding with the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China’s markets for agricultural commodities.

(2) Access for Exports of United States Goods.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People’s Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotechnology product.

(2) China’s Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding with the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China’s markets for agricultural commodities.

(e) Accounting of Chinese Subsidies.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall take such steps as are necessary to ensure that the Government of the People’s Republic of China has provided a detailed accounting of its subsidies to the World Trade Organization no later than the end of 2005.

(f) Reports.—

(1) Biennial Report.—Not later than six months after the date of the enactment of this Act and every four years thereafter, the President should transmit to the Committee on Ways and Means of the House of
Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China in meeting its obligations described in subsections (a) through (e) of this section (other than obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e));

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

(2) MONTHLY REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People's Republic of China to meet its obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e);

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

SEC. 6. REPORT ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Comptroller General of the United States shall carry out a comprehensive study pertaining to the policies of trading partners of the United States contained in, and resulting from, the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 804 and 805) to determine how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and resulting from, the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 504 and 505) can be better clarified administratively to provide for improved and more predictable evaluation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) Authorization.—Of the budget authority underlying the reorganization of the Office of the United States Trade Representative pursuant to section 1101(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (1) and (ii) and inserting the following—

"(1) $77,990,000 for fiscal year 2006;

(ii) $77,990,000 for fiscal year 2007.

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 3301(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE GENERAL COUNSEL AND CERTAIN OTHER OFFICES.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in or engaged in investigations and enforcement activities by the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs—

(1) $1,000,000 for fiscal year 2006; and

(2) $1,000,000 for fiscal year 2007.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—

Section 3305(e)(2)(A) of the Trade Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (1) and (ii) and inserting the following:

"(1) $62,752,000 for fiscal year 2006.

(ii) $65,890,000 for fiscal year 2007.

(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section 3305(e)(2)(A) of the Trade Act of 1930 before the date of the enactment of this Act.

(c) STUDY AND REPORT ON TRADE AND ECONOMIC RELATIONS WITH CHINA.—

(1) STUDY.—

(A) IN GENERAL.—The United States International Trade Commission shall carry out a comprehensive study pertaining to the economic relations between the United States and the People's Republic of China which focuses on China's macroeconomic policy, including its fixed exchange rate policy; the competitive nature of its industries, the composition and nature of its trade patterns, and the impact of those elements on the United States trade account, industry, competitiveness, and employment.

(B) REQUIREMENTS.—In carrying out the study under subparagraph (A), the United States International Trade Commission shall undertake the following:

(i) An analysis of the United States trade and investment relationship with China, with a focus on the United States-China trade balance and trends affecting particular industries, products, and sectors in agriculture, culture, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information pertaining to relational exchange and trade patterns with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China government-to-government services, and in particular, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between the two trade and investment analysis shall include information where available about China's new government procurement law and make adjustments, where possible, for merchandise passed through Hong Kong.

(ii) An analysis of the competitive conditions in China affecting United States exports and United States direct investment. The analysis shall take into account, to the extent feasible, significant factors including regulatory conditions for United States producers in China from Chinese domestic firms and foreign-based companies operating in China, the Chinese regulatory environment, including specific regulations and overall regulatory transparency, and other Chinese industrial and financial policies. In addition, the analysis shall examine the specific competitive conditions facing United States producers in key industries, products, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licenses, in specifying the competitive environment in the pharmaceutical industry, the software industry, and the entertainment industry.

(iv) An analysis of the effects of global commodity markets of China's growing demand for energy and raw materials.

(v) An examination of whether or not increased United States exports to China reflect displacement of United States imports from third countries or United States domestic production, and the role of intermediate and value-added goods processing in China's pattern of trade.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study carried out under paragraph (1).

SEC. 9. SENSE OF CONGRESS REGARDING EXPANSION OF THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) FINDINGS.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, meritorial, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value.

(2) The Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a multilateral framework of rules and obligations founded on such principles.

(3) The United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Republic of Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.

(4) Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA.

(5) The People's Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness.

(6) When China joined the WTO, it committed, in its protocol of accession, to negotiate with the GPA “as soon as possible”.

(7) More than 3 years after its entry into the WTO, China has not commenced negotiations on accession to the GPA.

(8) Recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA.

(b) IN GENERAL.—In 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services.

(c) GOAL AND OBTAIN.—In 2005, China removed a number of non-Chinese companies from its list of government procurement suppliers.

(d) MECHANISM.—The Committee of Ministers of the GPA began formal discussions on the China accession process in December 2005.

(e) CHINA'S PROGRESS.—China has taken some steps towards implementing the GPA, including making changes in its procurement laws and regulations.

(f) IMPLEMENTATION.—China has not made sufficient progress towards implementing the GPA, and its accession process remains stalled.

(g) CONCLUSION.—The Committee of Ministers of the GPA should take action to accelerate China's accession process and ensure that China complies with the GPA.

(h) FUTURE.—The GPA should be expanded to include new members, such as China, to promote open and competitive procurement practices worldwide.

(i) SUPPORT.—Congress supports efforts to expand the GPA and encourage new members to join.

(j) INTERNATIONAL.—The United States should work with like-minded countries to expand the GPA and ensure that China and other countries meet their procurement obligations.

(k) IMPLEMENTATION.—The United States government should continue to monitor China's implementation of the GPA and take any necessary action to ensure compliance.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(i) $120,000,000 for fiscal year 2006;

(ii) $125,000,000 for fiscal year 2007.

(b) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 1115(b)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.
potential value of more than $8 billion to United States firms.

(14) United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China’s software industry.

(15) The outright exclusion of substantial amounts of United States software from China that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, transparent, competitive, merit-based, and technology-neutral procurement embodied in the GPA.

(17) The software piracy rate in China has never fallen below 90 percent over the past 10 years.

(18) Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy.

(19) The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China.

(20) The United States trade deficit with China in 2004 was $162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003.

(21) China’s Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China’s imports of goods and services from the United States.

(22) The proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate many of the provisions of Premier Wen’s commitment to increase China’s imports from the United States, and will add significantly to the trade imbalance between the United States and China.

(23) Once it is fully implemented, the discriminatory aspects of China’s government procurement laws will apply to all goods and services that the government procures.

(24) Other developing countries may follow the lead of China.

(25) In July 2005, senior officials of the Chinese Government announced at the U.S.-China Joint Committee on Commerce and Trade that China would accelerate its efforts to join the GPA and toward this end will initially provide explicit emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, and phytosanitary and sanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies.

(26) In additional, the United States Trade Representative should have additional responsibilities to address a variety of needs that will best enable United States companies, farmers, and workers to benefit from the trade agreements to which the United States has acceded.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions. The Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks legal authority to do so.

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting and assessing duties from new shippers and instead require cash deposits;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine whether policy is responsive to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of non-compliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) in the event of trade disputes with the People’s Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should have additional responsibilities in resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to equal treatment, counterfeiting of intellectual property, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based international trade obligations, the United States Trade Representative should have additional responsibilities to address a variety of needs that will best enable United States companies, farmers, and workers to benefit from the trade agreements to which the United States has acceded.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions. The Department of Commerce has declined to make countervailing duty determinations for nonmarket economy countries in part because it lacks legal authority to do so.

(2) explicitly making the countervailing duty law under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) applicable to actions by nonmarket economy countries would give United States producers access to import relief measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protection of the Department of Homeland Security has encountered particular problems in collecting and assessing duties from new shippers and instead require cash deposits;

(4) this behavior may detract from the ability of United States companies to recover from competition found to be unfair under international trade laws;

(5) accordingly, it is appropriate, for a test period, to suspend the availability of bonds for new shippers and instead require cash deposits;

(6) more analysis and assessment is needed to determine whether policy is responsive to this and other problems experienced in the collection of duties and the impact that policy changes could have on legitimate United States trade and United States trade obligations;

(7) given the developments in the ongoing World Trade Organization (WTO) negotiations relating to trade remedies, Congress reiterates its resolve as expressed in House Concurrent Resolution 262 (107th Congress), which was overwhelmingly approved by the House of Representatives on November 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative should monitor compliance by United States trading partners with their trade obligations and systematically identify areas of non-compliance;

(9) the United States Trade Representative should then aggressively resolve noncompliance through consultations with United States trading partners;

(10) however, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) in the event of trade disputes with the People’s Republic of China, its impact on the United States economy, and the complaints voiced by many United States interests that China is not complying with its international trade obligations, the United States Trade Representative should have additional responsibilities to address a variety of needs that will best enable United States companies, farmers, and workers to benefit from the trade agreements to which the United States has acceded.

(c) AMENDMENTS.—

(1) COUNTERVAILING DUTIES IMPOSED.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting “(including a nonmarket economy country)” after “country” each place it appears.

(2) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentence: “With respect to the People’s Republic of China, if the administering authority determines that it is impractical or unduly burdensome to determine the amount of a benefit or the amount of a subsidy under clause (1), (ii), (iii), or (iv) of this act section 771(5)(E), the United States Trade Representative shall make an estimate of that benefit or subsidy.”
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U.S.C. 1673b, 1673d, or 1675). (A) the reasons duties were uncollected.

(b) Prohibition on double counting.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

c) Effective date.—The amendments made by subsection (a) apply to any petition filed on or after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any petition determinable under section 735, 737, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) Suspension of the Availability of Bonds to New Shippers.—Clause (ii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675a(a)(2)(B)(i)) shall not be effective until 2 years after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any petition determinable under section 735, 737, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).

(b) Report on the Impact of the Suspension.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) an analysis of whether the suspension of the effectiveness of section 751(a)(2)(B)(i) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a); and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and

(B) burdens imposed on legitimate trade and commerce by the suspension of availability of bonds to new shippers by reason of the suspension of that clause.

c) Report on Collection Problems and Analysis of Proposed Solutions.—(1) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Commissioner of the Bureau of Customs and Border Protection and the Secretary of Commerce, shall submit to the Committees on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing the major collection problems that are faced in the collection of duties, including fraudulent activities intended to avoid payment of duties, with an estimate of the total amount of uncollected duties, and a fiscal year in which a breakthrough across product lines describing the reasons duties were uncolleced.

(2) Recommendations.—The report shall make recommendations on additional actions to address remaining problems related to duty collections and, for each recommendation, provide an explanation of how the recommendation would address the specific problem or problems cited and the impact of implementing the recommendation would have on the competitive conditions of commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision would likely to violate any international trade obligations).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE WITH THE PEOPLE’S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) Intellectual Property Rights Compliance.—

(1) In General.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall ensure that the People’s Republic of China has met its obligations.

(b) Monitoring of Compliance with Obligations.—The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(c) Chinese Ministry of Public Security and the General Administration of Customs. The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(d) Chinese Ministry of Public Security. The Chinese Ministry of Public Security has established a leading group responsible for the planning and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(e) The Chinese Government has established a bilateral intellectual property rights law enforcement working group in cooperation with China in the World Trade Organization.

(f) The Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(g) The Chinese Ministry of Public Security has established a leading group responsible for the planning and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(h) The Chinese Government has initiated a comprehensive movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that the enforcement of intellectual property rights should not be affected by the Internet.

(i) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(j) The Chinese Government has appointed the Chinese Ministry of Public Security and the General Administration of Customs have issued regulations to ensure the timely transfer of intellectual property rights cases for criminal investigation.

(k) The Chinese Ministry of Public Security has established a leading group responsible for the planning and coordination of all intellectual property rights criminal enforcement to ensure a focused and coordinated nationwide enforcement effort.

(l) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases the current amount of infringing products for sale within China.

(m) The Chinese Government has published a list of infringing goods, including counterfeit goods, that are deemed pirated and subject to enhanced enforcement.

(n) The Chinese Government has submitted to the World Trade Organization a report containing—

(1) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.

(2) Dispute Settlement Proceedings in WTO.—If the President determines that the People’s Republic of China has not met each of the obligations described in subparagraphs (A) through (N) of paragraph (1) or taken steps that result in significant improvements in protection of intellectual property rights, in accordance with its obligations, the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(o) Access for Exports of United States Goods.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall ensure that the People’s Republic of China shall undertake to ensure that the Government of the People’s Republic of China has taken the following steps:

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant increase in the number of distribution licenses.

(2) Chinese officials have permitted all enterpises in China, including those located in bonded zones, to acquire licenses to distribute goods throughout China.

(3) The Chinese Government has submitted requirements to the Chinese State Council for review and taken any additional steps necessary to provide a legal basis for United States direct sales firms to sell United States goods directly to United States households.

(4) The Chinese Government has issued final regulations on direct selling, including with respect to distribution of imported goods.

(o) Access for Exports of United States Services.—In accordance with the terms of the
the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(2) The Chinese Government has made senior level officials available to meet under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues as agreed to by the two sides.

(3) Access for United States Agriculture.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(a) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(b) The Chinese Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding (MOU) of the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China's markets for agricultural commodities.

(c) Accounting of Chinese Subsidies.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and the Committee on Finance of the House of Representatives and the Committee on Finance of the Senate a report that—

(A) defines currency manipulation;

(B) describes actions of foreign countries that will be considered to be currency manipulation;

(C) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3001 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1980 (22 U.S.C. 5301 and 5305) can be better clarified administratively to provide for improved and more predictive evaluation.

(d) Report on Actions by China.—

(1) In general.—In light of the recent positive announcement by the Government of the People's Republic of China with respect to increased exchange rate flexibility, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that examines the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism may best be represented on a market-based representation of its value.

(2) Deadline.—The initial report required by this subsection shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and subsequent reports shall be included in the report required under section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305).

(e) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(2) the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 4. REPORT ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

(a) Report on Currency Manipulation by Foreign Countries.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that will be considered to be currency manipulation;

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3001 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1980 (22 U.S.C. 5301 and 5305) can be better clarified administratively to provide for improved and more predictive evaluation.

SEC. 5. REPORT ON ACTIONS BY CHINA.

(1) In general.—In light of the recent positive announcement by the Government of the People's Republic of China with respect to increased exchange rate flexibility, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that examines the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism may best be represented on a market-based representation of its value.

(2) Deadline.—The initial report required by this subsection shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and subsequent reports shall be included in the report required under section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305).

(3) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(2) the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 6. REPORTS ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

(a) Report on Currency Manipulation by Foreign Countries.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that will be considered to be currency manipulation;

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, the Bretton Woods Agreements Act (22 U.S.C. 286y) and sections 3001 and 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1980 (22 U.S.C. 5301 and 5305) can be better clarified administratively to provide for improved and more predictive evaluation.

(b) Report on Actions by China.—

(1) In general.—In light of the recent positive announcement by the Government of the People's Republic of China with respect to increased exchange rate flexibility, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that examines the mechanism adopted by the Chinese Government to relate its currency to a basket of foreign currencies and the degree to which the application of this mechanism may best be represented on a market-based representation of its value.

(2) Deadline.—The initial report required by this subsection shall be submitted to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act and subsequent reports shall be included in the report required under section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305).

(3) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(2) the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs of the Senate.
based companies operating in China, the Chi-
inese regulatory environment, including spe-
cific regulations and overall regulatory tran-sparency, and other Chinese industrial and financial policies. In addition, the analy-
sis shall examine the specific competitive
conditions facing United States producers in
key industries, products, services, and sec-
tors, potentially including computer and tele-
communications, hardware, textiles, grains, cotton, and financial services based
on trade and investment flows.
(iii) An examination of the role and impor-
tance of information property rights issues,
such as patents, copyrights, and licensing,
in specific sectors in China, including the
pharmaceutical industry, the software indus-
try, and the entertainment industry.
(iv) An analysis of the effects on global com-
modity markets of China’s growing de-
mand for energy and raw materials.
(v) An examination of whether or not in-
creased United States imports from China
reflected a pattern of trade im-
ports from third countries or United States
domestic production, and the role of inter-
mediate and value-added goods processing
in China’s pattern of trade.
(2) REPORT.—Not later than one year after
the date of the enactment of this Act, the
United States International Trade Commis-
sion shall submit to the Committee on Ways
and Means of the House of Representa-
tives a report that contains the results of the
study carried out pursuant to paragraph (1).
SEC. 9. SENSE OF CONGRESS REGARDING EXPAN-
SION OF MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROC-
UREMENT OF THE WTO.
(a) FINDINGS.—Congress finds the fol-
lowing:
(1) Nondiscriminatory, procompetitive,
merit-based, and technology-neutral pro-
curement of goods and services is essential
so that the United States can acquire the
best goods to meet their needs for the best
value.
(2) The Agreement on Government Pro-
curement (GPA) of the World Trade Organi-
zation provides a multilateral frame-
work of rights and obligations founded
on such principles.
(3) The United States is a member of the
GPA, along with Canada, the European
Union (including its 25 member States: Aus-
tria, Belgium, Cyprus, the Czech Republic,
Denmark, Estonia, Finland, France, Ger-
many, Ireland, Italy, Latvia, Liechtenstein,
Lithuania, Luxembourg, Malta, the Nether-
lands, Poland, Portugal, Slovak Republic,
Slovenia, Spain, Sweden, and the United
Kingdom), Hong Kong, Iceland, Israel, Japan,
Korea, Liechtenstein, the Netherlands with
respect to Aruba, Norway, Singapore, and
Switzerland.
(4) Albania, Bulgaria, Georgia, Jordan, the
Krygyz Republic, Moldova, Oman, Panama,
and Taiwan are currently negotiating to ac-
cede to the GPA.
(5) The People’s Republic of China joined
the WTO in December 2001, signaling to the
international community its commitment to
greater openness.
(6) When China joined the WTO, it com-
mitted, in its protocol of accession, to nego-
tiate entry into the GPA “as soon as pos-
sible.”
(7) More than 3 years after its entry into
the WTO, China has not commenced negoti-
atations to join the GPA.
(8) Recent legal developments in China il-
lustrate the importance and urgency of ex-
panding membership in the GPA.
(9) In 2002, China enacted a law on govern-
ment procurement that incorporates pref-
erences for domestic goods and services.
(10) The first sector for which the Chinese
Government has sought to implement the
new government procurement law is com-
puter software.
(11) In March 2005 the Chinese Government
released draft regulations governing the pro-
curement of computer software.
(12) The draft regulations require that non-
Chinese software companies meet conditions
relating to outsourcing of software develop-
ment back to China, technology transfer,
and similar requirements, in order to be eli-
gible to participate in the Chinese Govern-
ment market.
(13) As a result of the proposed regulations,
it appears likely that a very substantial
amount of American software will be ex-
cluded from the government procurement
process in China. The draft software regula-
tions threatened to close off a market with a
potential value of more than $8 billion to
United States firms.
(14) United States software companies have
made a substantial commitment to the Chi-
inese market and have made a substantial
contribution to the development of China’s
software industry.
(15) The outright exclusion of substantial
amounts of software not of Chinese origin
that is apparently contemplated in the regu-
lations is out of step with domestic pre-
ferences that exist in the procurement laws
and practices of other WTO member coun-
tries, including the United States.
(16) The draft regulations do not adhere to
the principles of nondiscriminatory, procom-
petitive, merit-based, and technology-
neutral procurement embodied in the GPA.
(17) The software piracy rate in China has
never fallen below 90 percent over the past 10
years.
(18) Chinese Government entities represent
a very significant portion of the software
market in China that is not dominated by pi-
racers.
(19) The combined effect of rampant soft-
ware piracy and the proposed discriminatory
government procurement regulations will be
a nearly impenetrable barrier to market ac-
cess for the United States software industry
in China.
(20) The United States trade deficit with
China in 2004 was $162,000,000,000, the highest
with any economy in the world, and a 12.4
percent increase over 2003.
(21) China’s Premier, Wen Jiabao, has com-
mitted to curb software piracy by increasing
China’s imports of goods and services
from the United States.
(22) The proposed software procurement
regulations that have been implemented by the
Chinese Government in November 2004 incor-
porate policies that are at odds with Premier
Wen’s commitment to increase Chi-
na’s imports from the United States, and
will add significantly to the trade imbalance
between the United States and China.
(23) Other developing countries may follow
the lead of China.
(24) Other developing countries may follow
the lead of China.
(25) In July 2005, senior officials of the Chi-
inese Government announced to the U.S.-
China Joint Committee on Commerce and
Trade that China would accelerate its efforts
to join the GPA and toward this end will ini-
tiate technical consultations with other
WTO members, delay accordingly
ing the delay in drafting regulations on software
procurement, as it further considers public
comments and makes revisions in light of
WTO rules.
(26) SENSE OF CONGRESS.—It is the sense of
Congress that:
(1) the Government of the United States
should support the Agreement on Government Procurement of the World Trade Organization (WTO);
Speaker, that voting against this bill will send a dangerous signal that this Congress is willing to turn a blind eye to Chinese complacency, and we continue with the status quo which, ultimately, puts many of our most important industries at risk.

I believe this bill is strong, responsible, and comprehensive. This legislation would, among other things, close an existing loophole which bars the use of the countervailing duty law against nonmarket economies such as China. Right now, one of our tools in our arsenal is unavailable when dealing with Communist countries. To my mind, it is absurd that when we are able to determine that products come in from France, Japan, Brazil, or Taiwan containing subsidies, we can use the countervailing duty law to strip the benefits of those subsidies, but, by contrast, we cannot do so if we discover that China or Vietnam have subsidized products that are entering our market.

This is an absurd situation. It is one that is the result of a court decision from the 1980s, the so-called Georgetown case, and for years I have advocated that we close this loophole. This is the core of this bill and the single most important reform that we have included.

Second of all, this bill would establish a strong and external system to audit China on its compliance with trade obligations on important issues like intellectual property rights, market access, and transparency. What is more, this legislation would place Congress strongly on record as opposing attempts to use the WTO to water down our domestic trade law protections.

This legislation would require the Treasury Department to define currency manipulation and clarify legal protections against China, an important initiative and language that we have worked in light of the developments of a week ago in Chinese currency policy.

This legislation would also authorize increased funding for the United States Trade Representative to create more trade cops to improve enforcement of existing trade laws.

This legislation would also replace the current bonds that are used by new shippers and antidumping cases with cash deposits, and, over the next 3 years, in a sunset situation, in light of the development of a week ago in Chinese currency policy.

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This legislation would also replace the current bonds that are used by new shippers and antidumping cases with cash deposits, and, over the next 3 years, in a sunset situation, in light of the development of a week ago in Chinese currency policy.

Finally, this legislation would authorize funding for the International Trade Commission to provide help in expediting its dealings with all trade issues.

This is a responsible, WTO-consistent initiative that I realize has been described by the other side as a fig leaf, a smoke screen, or something else. I must say, this is very much a mainstream initiative that is designed to show the strongest possible support in this Chamber for challenging China on its mercantilist trade policies.

I regret the vote of yesterday in which I think, in a very shortsighted fashion, many in the minority chose to put up a vote to slow us down here and, in the process, reduce the opportunity, not eliminate the opportunity, for quick Senate action on this bill. I believe we should have voted yesterday to pass this bill. But the other side has one more opportunity to set the record right and make very clear that they do not oppose protection to prevent us to deal with the problem of China trade.

I believe that passage of this legislation is essential for the economic future of the next generation, for the future of good-paying jobs in places like my native northwestern Pennsylvania, where we make things for a living, and we need to get this policy right. That is why I strongly urge my colleagues to support and swiftly pass this important measure.

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

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

Madam Speaker, I normally am in agreement with my friend, the gentleman from Pennsylvania, when it comes to antidumping and countervailing duty laws. We have worked together to try to improve those laws. But I disagree with him in regards to this legislation.

Madam Speaker, I disagree with the gentleman’s assessment of this legislation. I think it is an inconsequential bill. I do not believe it will do very much one way or the other. It will certainly not hold China accountable.

There is nothing in this bill that would hold China accountable for its violations of its international trade obligations.

So, Madam Speaker, let me try to get the Members to focus on what is in this bill. Who are the people who are hurt by subsidized and unfair trade? Who are coming to this well say is in this bill. I would urge my colleagues to please read the legislation that is before us. It is not the original bill that was filed by the gentleman from Pennsylvania (Mr. ENGLISH), a bill that was supported by the industry, that would have extended countervailing duty laws to China and nonmarket economies. Instead, what this bill does in section 2 is a “sense of Congress.” Now, a sense of Congress resolution is exactly that. It expresses our concerns, but takes no action.

The first section that takes any action at all in changing law is section 3, and section 3 does deal with the countervailing duty provisions. It extends countervailing duties to nonmarket economies. That is good. Countervailing duties are imposed when a country inappropriately subsidizes its products that go into international trade. And China and nonmarket economies should be held to our countervailing duty laws. Unfortunately, they are not today.

The problem is that the amended bill then puts 2 hurdles in being able to apply those countervailing duty provisions. It first does what is known as double-counting and prevents from using on the countervailing duty the import and export subsidies by the country involved. Now, that is a different standard than what we have for market economies, where we have to double-count export subsidies. The change here is dramatic, and that is why the industries that are affected by the countervailing duty statute that we would hope would help in regards to China oppose this bill.

Nu Car, which is one of the companies that asked us to apply the countervailing duty law to China, has written us in opposition to this section, because it will not help them remedy the situation of subsidized product coming from China into the United States. That is why the Committee to Support U.S. Trade Laws, the committee of business groups that have joined together in order to strengthen our antidumping and countervailing laws, oppose this section. It will not help companies that are hurt by subsidized, manufactured product coming into the United States. That is section 3. That is why I say, you try to help in one respect, but take it away by putting obstacles in the way.

You also put a second test that is not currently required, a certification of compliance of international law. That is not required today for a market economy. We could and should do it permanently. It should be done permanently.

Turning to section 4, Section 4 deals with the new shipper review amendment. Well, here we have a problem with Chinese exporters who are not getting an adequate security when they come into our market. You provided a temporary fix for 3 years. We should do it permanently. It should be done permanently.

Turning to section 5, Section 5 talks about monitoring compliance with the People’s Republic of China with international trade obligations. Read what is here. There is no action. There is no review, but no action. We should not be doing this now, the review. The administration does this already. There is nothing new that is added to the requirements that we are going to be able to take action against China for violating intellectual property rights or access to market for services, or access to market for goods. We should be taking action under our safeguards in that regard. But no, there is no action at all taken in section 5. If I am wrong, please correct me on this point.

Then we move to section 6. Section 6 is probably the most egregious section in the bill: report on currency manipulation by foreign countries. Read it. It is only a couple lines. You are asking Treasury to define currency manipulation. We have already had Treasury report on the action against China. China is manipulating its currency. We all know that. So why do we not take action against China?
No. This bill does, again, nothing in regards to China currency.

Then, in section 7, you talk about providing more money for the USTR. You are not providing more money for the USTR. The amount that you have here in authorized levels has already been provided in the appropriations bill. There is no new money here.

Then, in section 8, you talk about more money for the U.S. International Trade Commission. Again, it is equal to the amount that we have already provided through the appropriation process. There is no new money here in either section 7 or section 8.

I want to give you credit in section 9, talking about sense of Congress regarding the expansion of membership in the agreement on government procurement of the WTO. I support that section. I think we should be asking for broader participation in government procurement duties under the WTO. I support that here again, strictly a sense of Congress.

So, Madam Speaker, I take this time to go through section by section because I challenge Members who come and speak about bills to come and talk about the facts of what is in this bill. There are only two sections that actually provide any change in law or action. One deals with countervailing duty, and I have already pointed out how that is negative along with the positive, and the other deals with a temporary fix of the exporter license issue, which is certainly not the major problem that we are having with China today.

As I said earlier, this bill is a missed opportunity. It is a missed opportunity because the overwhelming majority of the Members of this body would like to vote on a bill that would provide real relief to the problems that we have in China by dealing with our trade responsibilities. That legislation just happens to be H.R. 3306, which has been introduced by the gentleman from New York (Mr. RANGEL). I regret that we do not have an opportunity to debate what is most important to the people of this country in enforcing our trade rules against the People’s Republic of China.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 1 1⁄2 minutes, first off, to invite my opponent, or my colleague, to actually read the bill.

I think this is sort of amusing. He criticizes us for dealing with the problem of double-counting, and yet the GAO conceded that this was a serious problem. Our bill has dealt with it directly, and this is an issue I have been involved in for years, and, obviously, our friends from the Committee on Ways and Means on the other side have not been.

Yes, our language encourages compliance with the WTO, but it is not self-executing, so I think that is actually a good thing.

He criticizes us for having a sunset on bonds. I thought the other side loved sunset provisions, particularly in the PATRIOT Act. We need to revisit this issue in a few years and see if it is having a negative impact.

We also, may I point out, do require the Treasury to revisit its current definition of currency manipulation, which, I would submit, is the principal problem with the application of the current law as it applies to currency manipulation.

Finally, we authorize funds, which is within the jurisdiction of our committee. Their bill does not authorize funds. In my view, it is inappropriate for us to specify through the authorization process how USTR is going to apply this money to new trade cop.

And, finally, may I point out, the gentleman claims that people in af-

Mr. RANGEL. I regret that the two I mentioned that are action sections in your bill to put to rest many of the criticisms offered by my friend, the gentleman from Maryland (Mr. CARDIN).

It was interesting to pick up on one of the criticisms. Let us just deal with it, lamenting the fact that this bill convenes a sense of Congress to the People’s Republic of China, that it carries little consequence.

Well, I would invite every Member of this Congress, including my colleague from Maryland, to think back just a couple of weeks ago when a bipartisan sense of the Congress was offered on this floor from Democrats and Republicans alike, dealing with a possible Chinese purchase of Uniold.

So incensed the Chinese Government, they told us to butt out. Now, that is very interesting, because if it is only a sense of the Congress, if it is only a useless exercise, it certainly awakened those in the Chinese Polit
duction will make the application of countervailing duties much more difficult, if not impossible, in a nonmarket econ-

Mr. HAYWORTH. Madam Speaker, I come to the well again. And I have already pointed out that there are no sections other than the two I mentioned that are action sections in your bill.

The gentleman from Pennsylvania (Mr. McDERMOTT). Madam Speaker, the Republicans have another installment in their blame game before us today. The trade deficit is rising higher and faster than the Space Shuttle because of policies blasted through the Congress by the Republicans. But they want to blame someone else. They say it is the fault of the Chinese, failing to remember their massive cuts in education and job training programs. They fail to remember that our trade deficit continues to grow because our foreigners are financing our budget deficit.

When the Republicans took control of the Congress over a decade ago, they came in as the party of free trade and free enterprise and balanced budgets. Well, now we have got companies and workers racing out of this country because of high energy and high health care costs. We have got employers leaving this country because they cannot find better skilled employees in this country than they can find else-

The fact is, this legislation puts the Communist Chinese on notice: if you want to get in the game, you better start playing by the rules. And, Madam Speaker, I say this in all candor. As one who opposed the most favored nation status for China, I believe this is important legislation. At the end of the day, this is the dilemma for my friends on the other side: Does the upcoming midterm election and political posturing win out to make the per-

Mr. MCDERMOTT. Madam Speaker, I yield myself 30 seconds to respond to the gentleman from Pennsylvania (Mr. ENGLISH).

I think the gentleman pointed out that there are no sections other than the two I mentioned that are action sections in your bill. And put to rest again that the double-counting provi-

Mr. CARDIN. Madam Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Support this legislation. Do not deal with domestic political obstruction. Strike a blow for freedom and putting Communist China on notice.

Mr. CARDIN. Madam Speaker, I yield 2 1⁄2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

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

Mr. HAYWORTH. Madam Speaker, I come to the well again, and it seems like only yesterday we were here. In fact, it was yesterday, wasn’t it? And, Madam Speaker, I think we have just seen why my colleague, the gentleman from Pennsylvania (Mr. ENGLISH), is one of the most able members of the Ways and Means Committee, because he put to rest many of the criticisms offered by my friend, the gentleman from Maryland (Mr. CARDIN).

It was interesting to pick up on one of the criticisms. Let us just deal with it, lamenting the fact that this bill convenes a sense of Congress to the People’s Republic of China, that it carries little consequence.

Well, I would invite every Member of this Congress, including my colleague from Maryland, to think back just a couple of weeks ago when a bipartisan sense of the Congress was offered on this floor from Democrats and Republicans alike, dealing with a possible Chinese purchase of Uniold.

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Yes, our language encourages compli-

They blame environmentalists for the high price of crude oil, and they blame workers when their jobs are outsourced. They blame everyone but themselves for our problems and avoid doing anything that can improve the situation. And that is what this bill is today.

This bill does not really require the administration to do anything to level
the playing field with China. Does this bill invest in the American workforce so they can better compete in the global economy? The answer is no.

Does this bill do something about the explosive energy prices that eat away at our competitive edge? No. This bill significantly invest in research and development so that the new services and products consumed around the world are created here at home by Americans? The answer is no.

This is just a mechanism the Republicans would use to point their fingers elsewhere, to China. They will not even put this bill before the Ways and Means Committee for an honest discussion. That shows this bill is not about solving America's problems or supporting America's workers. It is to make the workers believe that they are supporting them.

This bill is about bashing the Chinese in order to divert attention from the fact that the next bill up is CAFTA. The Republicans have ignored making America competitive in the world economy. This is a sop. This bill is out here first for a sop, for those Members who are going to vote for CAFTA, but want something to balance it off when they go home.

I was strong against China, but I did shift some stuff down to Central America; but please do not hold that against me, because I was strong against China. This is a sop. There are no teeth in this. There are no teeth at all. This is simply China bashing. And that does not make us any more competitive in the world, and it does not make us deal with the problems here.

We have to deal with the budget in this country if we are going to be serious about the Chinese investing in our bonds. They own big chunks of America, and they are going to continue it as long as the Republicans run the kind of deficits that they seem to think do not make any difference any more.

I remember guys out here talking about, oh, my goodness, we have to have a balanced budget amendment. This country is going to go to the dogs if we do not have a balanced budget amendment. Then they got in charge, and they started spending more than they earned. They are going to buy that. They are going to buy that. They are going to buy that.

This bill gives our government the tools to put that real pressure on China and to actually deal with them. It gives the teeth. Currently, U.S. companies can only file antidumping trade cases against companies in market economies. We need to deal with non-market economies like China. This bill helps us to do that. The other issue of piracy is. We are struggling with in the Judiciary Committee trying to find ways to protect the intellectual property that we create here in the United States to make sure that those creators get the benefit of their ideas.

We have now under this bill tools to fight piracy, to enforce our laws; dumping of products, a huge concern for manufacturers, especially of commodity products. This bill helps us deal with dumping. Finally, China made a step in the right direction on currency manipulation last week.

This bill gives us the tools to fight piracy, to enforce our laws; dumping of products, a huge concern for manufacturers, especially of commodity products. This bill helps us deal with dumping. Finally, China made a step in the right direction on currency manipulation last week.

This bill helps us to monitor the results of what they have done and to push them to do even more to make sure of the future.

This legislation, the United States Trade Rights Enforcement Act, is a very broad and very helpful piece of legislation to our manufacturers, our farmers and our service providers in the United States. It will help us get into that economy to sell our products there, to protect our products that are created here. It will monitor their system. It will enforce the laws that they have agreed to follow.

It gives our United States Trade Representative the opportunity to make sure that the atmosphere here in the United States only gets better and our access to Chinese markets improves significantly.

Mr. CARDIN. Madam Speaker, I yield myself 30 seconds just to respond to gentlewoman’s comments.

Madam Speaker, there is nothing in this bill that deals with dumping and enforcement in China. There is nothing in this bill that takes action against China for currency manipulation. And there is nothing in this bill that takes action against China for intellectual property failures. On the counter-vailing duties, I have already commented on that.

Madam Speaker, I yield 4 1/2 minutes to the gentleman from Michigan (Mr. LEVIN, the former ranking Democrat on trade, the senior member of the Ways and Means Committee.

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

Mr. LEVIN. Madam Speaker, the gentleman from Maryland (Mr. CARDIN) has done such a splendid job, I am not sure what more needs to be said.

Mr. CARDIN, you want me to say it again.

Yes, and I have spoken on this earlier, and it is unbelievable the hyperbole that we hear. I mean, if people want to vote for hyperbole, I guess this is a good way to do it. If they want to vote for this as a balance to vote for CAFTA, my suggestion is no one is going to buy that. They are going to see right through it.

I mean, you already responded. It has been said that there are tools here. I mean, I have been looking at this bill. You have read it carefully. And you have not been able to find them.

And I looked at it, and I cannot find anything that resembles a tool to do anything. On piracy, I am not sure what we are talking about. It is an immense problem. This administration has had years to do something about it.

You come here with all of these problems and say this bill is going to do anything about that? Really? On currency, it is mind-boggling.

You say you want reports. You want reports. Every 6 months the Treasury Department sends us a report. How thick is it? I forget. They are like this or like this. If we had brought these reports over from the last few years, I would guess they would be maybe a foot and a half high.

I say to the gentleman from Pennsylvania (Mr. ENGLISH), we do not need reports. We need some serious discussion and then action in this place. And I read the sense of the Congress provided. We hear is that we are somehow going to impact somebody, I will use that word carefully.

I read, for example, subparagraph 12, regarding Japan. This is in section 2, sense of the Congress. It says: In addition, the USTR should place particular emphasis on trade barriers imposed by Japan.

My word, we need more than words. We have been urging this administration to take action against nontariff barriers put up by Japan from the day they came into office, and nothing has happened. And you think some words here will impact?
I close with a comment about the bonds. Look, I remember sitting in the Committee on Ways and Means years ago talking about this problem, and it was only within the last 12 months that once again we asked the majority to take action against this evasion, and we did do it. So now you come here with something that is temporary. Why not make it permanent? We have been studying this darn problem for years. This is such a lame bill that it does not really get out of the starting gate.

So do not paint this as what it is not. Do not paint this as some turning point. What this is more than anything else is an effort to say to some people, we will give you this vote in return for your vote on CAFTA. Some people have been biting on that apple. Do not do it.

If you want to vote for a bill that is so short of what we have introduced, and by the way, I say to the gentleman from Florida (Mr. SHAW), it does not violate the WTO requirements in any respects, the bill of the gentleman from New York (Mr. RANGEL). If you want to vote for this thinking it does something, go ahead. Do not vote for it as an excuse to vote for something else.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 45 seconds.

First of all, if I am guilty of hyperbole, that certainly was not my intent. I wanted to point out here are some that share my view of the importance of this legislation. Endorsing this bill from the National Association of Manufacturers, John Engler, their president, wrote, This bill would give American companies the ability to offset unfair subsidies that benefit many of their competitors in China and other nations. For the first time, it will give Americans the same trade rights guaranteed to others under the World Trade Organization.

For those who wonder why the other side voted en masse against this bill yesterday, in today's Hill, according to the spokesman for the Ways and Means Democrats, "The minority's near unified opposition to the bill stemmed as much from its role in the CAPTA battle as from the strength of its content."

Now that to me is cynicism, and I think puts it into context.

Mr. SHAW. Madam Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time, and I congratulate him on his leadership for bringing this bill to the floor.

My friend from Michigan who just left the well has been critical of this bill regarding to intellectual property rights. Well, sometimes we should go to the bill and read the bill. And I am going to read it. It says, "Dispute settlement proceedings in World Trade Organization. If the President determines that the People's Republic of China has not met each of the obligations described in A through N, paragraph one," and that is the provision in there that talks about the trade obligations. It then goes on to take steps that result in significant improvements or protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as necessary to commence trade agreement violations for use in dispute settlement agreements against China in the World Trade Organization."

In other words, it says the President will proceed in accordance with the law to bring the World Trade Organization to obtain sanctions. That is what the World Trade Organization is about. It is not about unilateral sanctions. It is simply about that.

This bill has a lot of teeth in it, and for anyone to get to the well and say, hey, this does not have teeth in it really is misstating what this bill actually does. It takes us a long way down the road in solving some of the problems with China.

This is not the end of the legislative process as it relates to China. I think every Member of this Congress should know that. This does not cut off further debate on China. This does not cut off or set aside the possibility of new legislation dealing with the problems of China. We are all concerned about the tremendous increase in the deficit as it goes from China, but most of that deficit, if not all of it, is actually taking trade out of Japan and taking it out of Korea, South Korea.

When you look at the trade deficit as it is to that part of the world, it is pretty flat. But China's part is increasing. And the other countries are decreasing. That is concern for alarm. And I am concerned about some of the trade practices of China which are very sloppy and, quite frankly, not dealing entirely honestly with the trading partners.

So I would ask that Members put aside the politics and all the rhetoric, read the bill. If you like what is in the bill, it moves us further down the road. If you do not think we have gone far enough, that does not mean that you vote no on this particular bill. If you are interested in going forward with legislation that will control the violation of law committed by China, vote yes.

Mr. CARDIN. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, in response to my friend from Florida's (Mr. SHAW) comments on the intellectual property rights problem facing the United States with China, and they are substantial, China is violating intellectual property rights every day not only with videos and tapes, but also with industrial products. Let's go to that. The gentleman from Florida (Mr. SHAW) said, Listen to the action required by the President if China violates intellectual property to gather information.

We already have that. Madam Speaker. Action. It is filing a claim under the WTO. That is following the requirements of the WTO dispute settlement resolution process. There is no action whatsoever in this bill. The gentleman from Michigan (Mr. LEVIN) got it right. We do not take action against China that people might feel good about. And if you are so inclined to feel good about it and want to vote for it, fine. But to say that this is taking action against China is just wrong. It does not take action against China.

The administration tomorrow could file a claim against China on intellectual property against China if it wanted to, and it should have. The administration yesterday should have filed claims against China for currency manipulation, and it has not, and then allow the WTO process to proceed. But for us to say that we are requiring the administration to make a finding and then collect information which they already have to be tough on China, come on now. Let us be straightforward on this bill.

It is a bill that says things about China that many Members might feel good about, but as far as taking action against China, this bill comes out short.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, how much time is remaining?

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Pennsylvania (Mr. ENGLISH) has 14 minutes remaining. The gentleman from Maryland (Mr. CARDIN) has 12 minutes remaining.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER), a very distinguished Member of the House, who in a short period of time has become a real force for fair trade.

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

Mr. TURNER. Madam Speaker, I support H.R. 3283, the United States Trade Rights Enforcement Act, because it is necessary to send a strong message to foreign governments who are unfairly dumping product on our shores and manipulating their currency rates.

In June, I hosted my second Manufacturing and Jobs Forum in my district. I invited manufacturers from southwest Ohio to share their concerns about their businesses. The gentleman from Pennsylvania (Mr. ENGLISH) joined me for my first forum, and the gentleman from Illinois (Mr. MANZILLO) joined me in Dayton for the second forum. I would like to thank both gentlemen for their leadership on the issue of trade fairness.

Madam Speaker, the manufacturers I spoke with during both forums shared a common concern about the survival of their businesses, the American economy, and unfair trade practices of China, including the undervaluing of
China's currency. Congress must continue to work to level the playing field for manufacturers.

Last Thursday the Chinese Government announced that they would no longer peg their currency to the American dollar. China's currency will be given room to float among a bundle of foreign currency rates. Mr. Speaker, this is an important first step; however, this adjustment will still result in an undervalued Chinese currency.

I urge the Treasury to further steps to enforce our trade rights. H.R. 3283 will require the Secretary of the Treasury to submit a report to Congress defining currency manipulation and describing the actions of foreign countries who are manipulating their currency. This provision, along with others included in the bill, will help Ohio manufacturers who are continually harmed by unfair trade practices. I urge my colleagues to vote for this bill.

Mr. CARDIN. Madam Speaker, I yield myself 2 minutes in response to the currency issue. Section 6 in this legislation deals with currency manipulation. It does not deal with China specifically. And it requires the Treasury to define currency manipulation. Action against countries that will be considered to be currency manipulation.

The problem is currency manipulation has already done this and found that China was not manipulating its currency despite the fact that we know it undervalues its currency between 15 percent and 40 percent. So I appreciate the gentleman's concern about the competitive problems that we have with American manufacturers and producers trying to compete with an undervalued Chinese currency, but this bill comes up very short.

But I very much appreciate what the gentleman said because we will be come back in a little bit and offer him an opportunity to really do something about the manipulation of China's currency.

Madam Speaker, let me also point out while I am on the floor that legislation filed by the gentleman from New York (Mr. RANGELEY, H.R. 3306, would take action in this area by requiring the administration to initiate a WTO action to address China's currency manipulation.

Now, that would bring action consistent with our obligations under the World Trade Organization because we would act under the World Trade Organization. That is what we should be doing.

Let me suggest that when you file an action under the WTO, it is not the end of issues, it is the beginning of a process. To ask the Secretary of the Treasury to do another study or come up with another definition, all we do is delay for another year any action against China. And I suggest to the other amendment that they made is in any way dealing with the underlying problems of currency manipulation is just unreal. China announced today that they do not intend to do more. So we need to take action against China.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 1½ minutes to clarify a few points raised by the gentleman from Maryland (Mr. CARDIN) and the prior speaker.

First of all, this legislation does have a significant approach not only to dealing with some of the loopholes in the antidumping, as spoken for in the bond provision, but also dealing with the problem of subsidies, where we do not apply countervailing duties in cases where communist countries are found to be selling below market currently. I believe, as I will make clear in a colloquy in a few minutes, that this language does not create additional loopholes but, in fact, I think provides a real and substantial solution.

I would also point out that this legislation does something meaningful on the currency issue by requiring the Treasury to revisit how they define currency. I will concede in the bill that has been heard on the other side, when we had already announced our bill, there is a provision using a 301 to deal with currency. But I must tell you, Madam Speaker, that even that procedure has a potential loophole to allow an administration to wibble out. So substantively, it is not clear to me there is a major difference.

I believe with the limited move forward that China has already evidenced, the time has come to give them an opportunity to indicate to us by action whether they are sincere or not. I think the currency language in our bill is adequate to allow that to happen.

Madam Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), who in two terms in the House has already made clear he is a leader on trade issues and on economic issues.

Mr. GINGREY. Madam Speaker, I thank the gentleman for yielding me this time, and I want to thank my colleague the gentleman from Pennsylvania (Mr. ENGLISH), for introducing H.R. 3283, the United States Trade Enforcement Act. I believe this legislation is a positive step in addressing our trade discrepancies with the People's Republic of China. And yes, it does serve as a great precursor for the debate on the Dominican Republic and Central American Free Trade Agreement.

The district I represent in western Pennsylvania has a rich history of manufacturing textiles from the Swift Denim Company in Columbus, Georgia, to Mt. Vernon Mills in Trion, Georgia, which has been in business since the 1840s and currently employs 1,800 associates. The textile industry, Madam Speaker, continues to provide quality jobs for the citizens of Georgia's 11th Congressional District. I make this point because many of these employees have established a culture and community around textile manufacturing.

Although the administration is working diligently to enforce our trade policies, I remain concerned that our country has not taken the most aggressive position needed to prevent the People's Republic of China from ignoring their trade responsibilities and agreements. If we continue to allow abuses such as currency manipulation and violations of intellectual property rights, an entire way of life in these textile communities will be endangered. When ratifying trade agreements, it is important to encourage both free and fair trade. We cannot afford to lose any more textile jobs, especially those lost due to the unfair practices of the Communist Government on the Mainland China.

Madam Speaker, I encourage the passage of H.R. 3283 mandating stronger enforcement of our trade policies.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I thank the gentleman as he may consume to the gentle from Utah (Mr. BISHOP) in order to engage in a colloquy on some of the issues raised by this debate.

Mr. BISHOP of Utah. Madam Speaker, I yield to the gentleman from Pennsylvania.

Mr. ENGLISH of Pennsylvania. No, and I thank the gentleman for raising this issue. Madam Speaker, because it has been raised during this debate. It is well understood that World Trade Organization agreements and WTO dispute settlement decisions are not self-executing, that is, they are not binding on the United States or any members themselves. Congress must enact any changes to U.S. law resulting from WTO agreements or WTO decisions.

Mr. BISHOP of Utah. Reclaiming my time, Madam Speaker, and to further clarify, to implement any WTO agreements or decisions of a WTO panel or the appellate body, the United States must enact the agreement or the implementation changes through congressional action.

Mr. ENGLISH of Pennsylvania. If the gentleman will continue to yield, that is correct.

Mr. BISHOP of Utah. Is this provision in H.R. 3283, therefore, intended to...
change this fact in any way or to impose any new obligations on the Commerce Department or the United States beyond those already set forth in the law?

Mr. ENGLISH of Pennsylvania. No, and I thank the gentleman. This provision does not force the Commerce Department to do anything inconsistent with U.S. law. Instead, it is designed to provide flexibility to Commerce in interpreting the law.

Mr. BISHOP of Utah. Therefore, where H.R. 3238 says that "the Commerce shall ensure that the application of CVD law is consistent with the international obligations of the United States," I agree that Commerce, which administers both U.S. antidumping law and U.S. countervailing duty law, may reach this determination of consistency on its own.

Mr. ENGLISH of Pennsylvania. That is correct.

Mr. BISHOP of Utah. Madam Speaker, I very much appreciate the gentleman from Pennsylvania for his kindness and his information.

Mr. CARDIN. Madam Speaker, I yield myself 1 minute to respond to the textile issue that was recently mentioned on the floor.

When we negotiated our WTO accession agreement with China, we provided certain safeguards against the flooding of a market on textiles, knowing that the textile quota would be expiration. The concern many of us have had with China is that our government has not exercised the safeguards that are currently available to us under the agreement negotiated with China. We would like to see the administration make sure that we do not get a flooded market either here or with trading partners that would have an adverse impact on the textile industry.

That is a major concern in our relationship with the People's Republic of China. The concern is that this legislation does absolutely nothing about that. So I appreciate the comments of my colleague on the other side of the aisle that there is no provision in this bill that would require action against China consistent with the provisions of the WTO accession agreement.

Madam Speaker, I reserve the balance of my time.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I have no further requests for time, and I believe I have the right to close.

The SPEAKER pro tempore (Mrs. Biggert). That is correct.

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

Madam Speaker, I very much appreciate the discussion that we have had. One of the advantages of the consideration of this bill under a rule as restrictive and repressive as the rule was, is that we do have a chance to have a more open and full debate, and I appreciate that.

I appreciate also the fact that we have been able to go through many of the provisions, including the colloquy that was just recently put on the record. I found that colloquy helpful, because I must tell you I shared the gentleman's concern that we were turning over to dispute settlement panels a decision as to whether we would bring future cases using countervailing duties. And if I understand my friend, the gentleman from Pennsylvania (Mr. English), that would be a determination made solely by our Commerce Department consistent with U.S. interests, and I certainly agree with that interpretation.

I regret that we have not had the chance to consider amendments or consider a bill that contains solutions that are well intended, and I think the majority of the Members of this body would agree with. But I want to make it clear that for those who are claiming this bill is tough on China or tough on countervailing duties, it is not.

It does say certain things about China that most Members of this body would agree with. The main purpose of this bill was to deal with countervailing duties to nonmarket economies, and it does that in a way that probably will provide no relief. It provides authorizations for additional funds for the agencies that deal with trade, but we have already taken care of that in the appropriation bill.

So I come back to the point of the gentleman from Michigan (Mr. Levin). If you want to feel good and vote for this bill, go ahead and do it. But if you think you are taking action against China, you believe this bill will speak to the trade imbalance we currently have with China because of China's failure to adhere to their international responsibilities under the WTO or under the accession agreement with the United States, if you believe that, this bill does not do that. This bill is a missed opportunity because we were not able to have a free and open rule.

So I regret, Madam Speaker, that we are sort of in a dilemma with this bill as to what advice we should give Members. If you look at it as a resolution expressing the sense of Congress, there is nothing wrong with this bill. But if you look at it as a bill to provide action against China, there is really nothing in it to do so.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself the balance of my time.

First of all, I would like to thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. Thomas), for giving us the opportunity to have a debate and have a vote on this bill at a time when I...
think it is particularly important that this Congress go on record deliberately challenging China in many of its mercantilist trade policies.

As I sat down with the gentleman from California (Mr. THOMAS), I worked closely with him to come up with a bill that would not be a panacea, would be a compromise, and would be a compromise that we could pass in the House by a wide margin and also pass in the United States Senate.

We have heard some sentiment from the other side of the aisle, and I think it is sincere, that wishes we could have gone further in this bill. I must say part of me also wishes to have gone further in this bill, but I believe this is a practical bill, but also a substantial bill that we can pass and can make a tangible start in strengthening our trade policy. That, I believe, makes it a very important bill in itself.

I congratulate the gentleman from Maryland (Mr. CARDIN), whom I have worked with on so many trade issues, and I am sorry to be disagreeing with him on this bill. I believe on the face of it, this bill is substantial. It is fact-based, responsible, comprehensive, and it moves in the right direction. It closes a loophole dealing with countervailing duties, a loophole that has for years been out there, and Congress has lacked the will to take it on.

We would for the first time apply countervailing duties where we determine Communist countries like China are involved in subsidizing their products. This would add a major tool in our arsenal in dealing with these countries and making them play by the rules. To me it is absurd when we find a subsidized product coming in from France, Brazil, Japan or Taiwan, we can apply countervailing duties to strip them of the benefit of their subsidy, but we cannot do it with China or Vietnam.

This bill moves forward and with clear language, but without double counting, which was not our intent; deals with this issue in a direct and refined way.

This bill also would establish a strong auditing system to make sure that China is complying with the trade agreements for which we are already a party, and deal with their trade obligations on intellectual property rights, market access and transparency.

This legislation does include resolution language dealing with issues like the current rules negotiation on the WTO, but it also requires the Treasury Department to do more than a study. It requires the Treasury Department to revisit its current definition of currency manipulation so as to make the current laws already on the books against currency manipulation something other than a dead letter.

We could consider, but we do it in the form of an authorization, and that is so important because that spells out how the U.S. Trade Representative can use the money, and it specifies that we are going to use that additional money for trade cops that are going to improve the enforcement of existing trade laws and the tracking of existing treaties, and that is essential if we are to have a more balanced approach to that important trade relationship we have with China as well as with other countries.

This legislation would also close the current loophole dealing with anti-dumping. CTTA case use bonds and then skip out on them in order to avoid paying their obligations. This is something I know the other side of the aisle agrees with because they included it in their last-minute legislation as well.

I was disappointed to hear my colleague on the other side of the aisle suggest that this is all reports and no action items. As is clear from a plain reading of the provisions of this bill, that is simply not the case. And there are all substantial, and they all move our trade policy substantially forward, a trade policy that, after all, we depend on energy in the executive to enforce, but ultimately Congress needs to implement our constitutional obligation to take an active role in shaping our trade policy.

With record trade deficits that are now exceeding 6 percent of GDP every year, we cannot go forward with the status quo, and this legislation is a substantial, modest, but achievable piece of legislation that will allow us to begin to deal with these problems in a much more direct and aggressive way.

I would hope that having listened to the debate, everyone in this Chamber would think carefully before doing what some in the minority did yesterday, and that is registering a vote against this legislation. This legislation was designed to be a consensus bill. It should not be wrapped up in any other debate, but I do not control the timing of that.

I believe it is fairly clear that our friends in Beijing will look at this debate, will look at how we respond to this legislation, and if we do not overwhelmingly pass this bill, they will conclude that we are not committed to dealing with the problem.

Mr. Speaker, I encourage all of my colleagues to vote for this bill and to send a clear message to our trading partners that we are not prepared to see the status quo go forward.

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

Mr. CARDIN. Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR) for the purpose of a unanimous consent request.

Ms. KAPTUR asked and was given permission to revise and extend her remarks.

Ms. KAPTUR. Mr. Speaker, I rise in opposition to the English bill, which will only create more red ink with China in our global trade.

Our job and trade deficit with China is exploding with more jobs being lost every day. Our red ink in jobs and trade give new meaning to the name “Red China.” We need strong and effective laws to make China follow the rules to which we hold everyone else responsible.

This bill does not give us those strong and effective rules.

Instead of demanding action, the Republican bill calls for more reports, more studies, and more dialogue. It fails to include real solutions proposed by members on both sides of aisle. These include strengthening remedies for American industries hurt by export surges caused by Chinese imports and requiring the administration to take action to bring down China’s trade barriers. Further, the English bill actually adds new loopholes that gut the effect of the English bill. The bill would harm U.S. trade laws by giving direct effect to the World Trade Organization to impose its decisions against U.S. laws and would create harmful precedents on U.S. sovereignty.

I support subjecting China and other non-market economies to our subsidy laws. But this bill actually places restrictions on the Department of Commerce’s ability to go after those very illegal government subsidies. In fact, this bill may give China an advantage in this situation. This bill places a greater burden on the U.S. Department of Commerce than current U.S. law or WTO rules to protect the U.S. against unfair competition from China’s subsidies. By further limiting counting of subsidies, this places China in a special category above all other trading partners. It also places such a burden on the agency that the costs of doing this far outweigh the gains.

There is a provision in this bill that says that DoC must ensure that trade law is implemented consistent with U.S. international trade obligations. This hasn’t appeared in U.S. trade law before and could give the WTO special influence over U.S. law. Are we an independent Nation or are we but a client State for multinational giants?

This bill fails to address the real problem of our growing deficit with China. In fact, sadly, it appears that this bill is simply a cover for some Members to vote for CAFTA later today. They can say they spoke out about our widening trade deficits, but actually they make them worse by voting for CAFTA.

I ask Members to consider their conscience. Why use this fig leaf of a bill that will lead to more job loss, poorer working conditions and more money for Washington, D.C. and in China, and ultimately with Central America.

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

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

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 387, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill. The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CARDIN. Mr. CARDIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CARDIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.
The Clerk read as follows:

Mr. Cardin moves to recommit the bill H.R. 3283 to the Committee on Ways and Means with instructions that the Committee report the same back to the House forthwith with the following recommendation:

Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF CURRENCY MANIPULATION--

(a) DEFINITION OF UNJUSTIFIABLE ACTS, POLICIES, AND PRACTICES.--Section 301(d)(4)(B) of the Trade Act of 1974 (19 U.S.C. 2411(d)(4)(B)) is amended to read as follows:

"(B) makes the applicable determinations under subparagraph (A) which prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.

(b) INVESTIGATION INTO CURRENCY MANIPULATION BY THE PEOPLE'S REPUBLIC OF CHINA.--

(1) INVESTIGATION, DETERMINATIONS, ACTIONS.--The United States Trade Representative shall:

(A) conduct an investigation, under section 305 of the Trade Act of 1974, of the currency practices of the People's Republic of China;

(B) make the applicable determinations under subparagraph (A) with respect to that Act pursuant to that investigation; and

(2) INITIATION OF INVESTIGATION.--The United States Trade Representative shall initiate the investigation required by paragraph (1) not later than 90 days after the date of the enactment of this Act.

SEC. 2. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.--

(a) Bilateral Negotiations.--Section 3006(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306(b)) is amended in the second sentence by striking "(1) have material global account surpluses; and (2)"

(b) DEFINITION OF MANIPULATION.--Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) MANIPULATION OF RATES OF EXCHANGE.--A country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a probable intent to intervene in the market by an authority to undervalue its currency in the exchange market that prevents effective balance of payments adjustment or gains an unfair competitive advantage over the United States.

(c) REPORT.--Section 3005(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)) is amended--

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) a detailed explanation of the test the Secretary exercises to determine whether or not a country is manipulating the rate of exchange between that country's currency and the dollar for purposes of preventing effective balance of payments adjustment or gaining an unfair competitive advantage over the United States."--

Mr. Cardin (during the reading).--The Speaker pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. Cardin) is recognized for 5 minutes in support of his motion to recommit.

Mr. Cardin. Mr. Speaker, the only opportunity we have is on a motion to recommit, and this motion to recommit will deal with the currency manipulation issue with China, and will take real action on China's currency manipulation.

Since 1994, China has pegged its currency to the U.S. dollar. This policy has caused China's currency to become undervalued by as much as 40 percent. What this means in practice is that Chinese manufacturers have a significant unfair advantage over U.S. manufacturers because China's currency manipulation makes Chinese exports to the United States cheaper and U.S. exports to China more expensive.

It is simply unacceptable that this administration has allowed China to continue this policy, and the Chinese Government appears to realize that this administration is not serious about stopping China's currency manipulation. Just last year when the vice governor of the People's Bank of China was asked when China would change its currency policy, he stated, "China has 8,000 years of history. One year, three years, five years, or ten years, for Chinese, that is just a twinkle of an eye." Now I submit that the administration and many of those on the opposite side of the aisle will point to the fact that China revalued its currency by about 2 percent last week. However, I would urge them to read the report in today's Washington Post and New York Times indicating that China's Central Bank issued a statement yesterday to clarify that last week's change was a one-time event, and that we should not expect more changes any time soon.

China's continuing refusal to end its currency manipulation demands action by this body. However, the bill before us today, H.R. 3283, calls on one more report and another delay. The Treasury Department has already issued reports on Chinese currency and has not taken any action.

Mr. Speaker, I have heard my colleagues talk about taking action against China during this debate. Here is an opportunity to do that. What this motion to recommit would do would be to bring this legislation back with an amendment that would have the administration file a WTO claim. That is consistent with the WTO. It starts the process. It tells China we are serious. It does not do anything in violation of the WTO. It starts the process, but it tells China that this body is serious about their dealing with their currency issue. That is what China understands. We cannot justifying taking a motion to another committee. That is currency manipulation. That is working to the disadvantage of American manufacturers.

I would hope that we could join together. I have heard many of my Republican friends tell me it is time to take action against China. This does it in a responsible way. It does not require any tariff; it does not do anything inconsistent with the WTO obligations. It exercises the constitutional responsibility that we have on trade. It is the legislative branch that is responsible for trade. We delegate to the executive branch. We should be willing to assume our responsibility.

Members believe it is wrong for China to continue to manipulate its currency to the disadvantage of U.S. manufacturers and producers and employment here in this Nation, vote for the motion to recommit so we can finally start action against China on currency manipulation.

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

Mr. English of Pennsylvania. Mr. Speaker, I rise in opposition to the motion to recommit.

The Speaker pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. Cardin)--

Mr. English. Mr. Speaker, I rise with mixed feelings because in a different setting, I might be very sympathetic to the argument the gentleman from Maryland (Mr. Cardin) is making. I have been involved myself in the fight to specifically challenge the Chinese on currency issues, but I am disappointed in the timing of this motion, particularly in view of China's recent and very modest actions to move forward on currency, and with the fact that in this context, this motion would function effectively as a poison pill that might very well kill the bill in the Senate.

On the substance, the motion from the other side of the aisle seeks to force the administration to bring to a section 301 case against China based on its past because it would hinder the efforts to change China's former currency regime. In fact, China's recent steps in moving in the direction of a float, however limited, have made it very clear that the timing on this provision is not good enough to move forward on currency.

I would argue that my bill requires that the USTR instead report to Congress every 6 months on the degree to
The vote was taken by electronic device, and there were—yeas 195, nays 232, not voting 6, as follows:

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The intent thus appears to be to force the U.S. to impose sanctions without a WTO finding of a breach, thus allowing China to shift the focus from China’s currency policies to claims of U.S. breaches of the WTO. In the current context, in my view, that would not be helpful.

Accordingly, with great regret and acknowledging that my colleagues from Maryland has been serious about moving forward in the area of currency reform and challenging the Chinese, I feel that his motion to recommit comes up short, and I would urge all of my colleagues to vote it down.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the motion to recommit was agreed to, by the yeas and nays as follows:

[House Roll Call Vote No. 383]

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. ENGLISH of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.
The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 255, nays 168, not voting 10, as follows:

YEA—255

... the table.

The SPEAKER pro tempore (Mr. TERRY). The pending business is the ENCOURAGING TRANSITIONAL NA-

The vote was taken by electronic device, and there were—yeas 264, nays 0, not voting 7, as follows:

YEA—426
CONDEMNING TERRORIST ATTACKS IN SHARM EL-SHEIKH, EGYPT, ON JULY 23, 2005

The SPEAKER pro tempore. The business pending is the question of suspending the rules and agreeing to the resolution, H. Res. 384.

The Clerk read the title of the resolution.

The question is on the motion offered by the gentleman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 384, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 5, as follows:


<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
<th>Not Voting</th>
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<td>H. Res. 384</td>
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The result of the vote was announced as above recorded.

The vote was ordered transmitted to the Senate.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TIAHRT). Mr. Speaker, on rollcall No. 438 I was inadvertently detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. JENKINS. Mr. Speaker, on rollcall Nos. 436, 437 and 438 I was in a room in the Longworth building and the Bell did not ring. I was unaware of votes occurring. Had I been present, I would have voted "nay" on rollcall No. 436 and "yea" on rollcall Nos. 437 and 438.

Mr. MURPHY. Mr. Speaker, on rollcall No. 438 I was inadvertently detained. Had I been present, I would have voted "nay" on rollcall No. 438 and "yea" on rollcall Nos. 437 and 438.
from Florida (Mr. HASTINGS), pending
tomy 30 minutes to the gentleman
purpose of debate only, I yield the cus-
mmit.
their designees; and (2) one motion to recom-
motion except: (1) two hours of debate on the
shall be considered as read. The previous
ention of any point of order to consider in
resolution it shall be in order without inter-
the bill to a time designated by the Speaker.
suant to this resolution, notwithstanding the
H. RES. 385
Resolved, That upon the adoption of this
bition of the previous question, the
mit may postpone further consideration of
the bill to a time designated by the Speaker.
The SPEAKER pro tempore. The gent-
leman from Georgia (Mr. GINGREY) is
for the purpose of debate only, I yield the cus-
tomy 30 minutes to the gentleman
Florida (Mr. HASTINGS), pending
which I yield myself such time as I may
consideration of this resolution, all time yielded is for
the purpose of debate only.
Mr. Speaker, House Resolution 385 is
a closed rule that provides 2 hours of
debate in the House, equally divided and
controlled by the majority leader and
the minority leader or their des-
ingees. It waives all points of order
against consideration of the bill, pro-
vides that notwithstanding the oper-
ation of the previous question, the
Chair may postpone further considera-
tion of the bill to a time designated by
the Speaker, and it provides one
motion to recommit.
Mr. Speaker, I rise today as the
pride sponsor of H.R. 5, the Help Ef-
cient, Accessible, Low-Cost, Timely
Healthcare (HEALTH) ACT OF 2005
Mr. GINGREY. Mr. Speaker, by di-
recting the Committee on Rules, I
up H.R. 5, HELP EFFICIENT, AC-
SIBILITY, LOW-COST, TIMELY
HEALTHCARE (HEALTH) ACT OF
2005
Mr. GINGREY. Mr. Speaker, by di-
recting the Committee on Rules, I
call up House Resolution 385 and ask
for its immediate consideration.
The Clerk read the resolution, as fol-
ows:
H. Res. 385
Resolved, That upon the adoption of this
resolution it shall be in order without inter-
vention of any point of order to consider in
the House the bill (H.R. 5) to improve patient
access to health care services and provide
improved medical care by reducing the ex-
cessive burden the liability system places on
the health care delivery system. The bill
shall be considered as read. The previous
question shall be considered as ordered on
the bill to final passage without intervening
motion except: (1) two hours of debate on the
bill equally divided and controlled by the
Majority Leader and the Minority Leader or
their designees; and (2) one motion to recom-
mit.
Sec. 2. During consideration of H.R. 5 pur-
suant to this resolution, notwithstanding the
operation of the previous question, the
Chair may postpone further consideration of
the bill to a time designated by the Speaker.
Mr. Speaker, I rise today as the
proud sponsor of H.R. 5, the Help Ef-
cient, Accessible, Low-Cost, Timely
Healthcare Act of 2005, or the Health
Act, and to speak on behalf of both the
rule and the underlying bill.
First, I would like to thank both the
gentleman from Wisconsin (Mr. SEN-
SRENNER), the chairman of the Ju-
diciary Committee, and the gentleman
from Texas (Mr. SMITH), the chairman
of the Energy and Commerce Com-
mitee, for their work on this issue, as
this is not the first time the House of
Representatives has considered this
measure.
Mr. Speaker, H.R. 5 is a good bill
that has passed this House in the 108th
Congress with bipartisan support.
Therefore this bill and its substance
have been thoroughly debated both on
this floor and in committee in the pre-
vious two Congresses.
As the sponsor of H.R. 5, I am very
excited about the opportunity that we
have to strengthen our health care system
for the sake of every household’s health and every house-
hold’s pocketbook.
Mr. Speaker, H.R. 5 is without ques-
tion one of the best opportunities this
Congress has to address the health care
crisis we face today. There is no doubt
among the American people, and there
should be no doubt among Members of
this Congress, that we need funda-
mental reforms to strengthen access to
health care and to control the bур-
geoning cost of health care.
Having practiced for almost 30 years as
an OB/GYN physician, I have not
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speech and the underlying bill.
And without this insurance coverage, doctors from emergency medical specialists, neurosurgeons, OB-GYN physicians, they are being chased out of their profession and leaving ordinary people without their specialty doctor and without efficient and timely health care.

Mr. Speaker, H.R. 5 is not the silver bullet to America’s health care problems. However, in conjunction with things like associated health plans, which I’ve discussed again, the Medicare Part D prescription drug benefit which will go into effect January 1 of 2006, and other important initiatives developed by the majority in this Congress, this bill is the right prescription for the American people at the right time and will put us well on the road toward recovery.

I would like to encourage my colleagues to give their full consideration to H.R. 5. This Congress has an important opportunity to pass this meaningful health care reform.

Mr. Speaker, the American people deserve no less from us. Again, I would encourage my colleagues on both sides of this aisle to support the rule and the underlying bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield in opposition to this rule.

Mr. Speaker, I rise in opposition to H.R. 5, which purports to help stem rising medical malpractice insurance premiums and relieve health care professionals, but, in reality, will have very little effect.

What this body should be considering today is comprehensive medical malpractice reform and this measure does not even come close to achieving that important goal.

Last night, the Rules Committee did not make in order several amendments, which taken together, would have achieved true comprehensive medical malpractice reform.

Earlier this year, I, along with BRIAN BAIRD, DUTCH RUPPERSBERGER and DAN LIPINSKI, introduced the Comprehensive Medical Malpractice Reform Act of 2005, which would have achieved three key goals, namely (1) constrain the cost of medical liability insurance and reduce unwarranted litigation; (2) protect the rights of patients who have been harmed to receive proper and justified compensation; and (3) improve overall the quality of health care in our country.

Unfortunately, we, along with several other Members, were denied the opportunity to improve H.R. 5 with these amendments.

One of our amendments that was denied debate would have set reasonable limits on non-economic damages. We all know that a cap of $250,000 on non-economic damages is indefensible. Non-economic damages may merit additional compensation, particularly in the case of the negligent death of an infant.

Our amendment would have set a cap on awards for pain and suffering that is based on California’s enactment into law of the Medical Injury Compensation Reform Act in 1975. Many provisions of H.R. 5, including caps on non-economic damages, are modeled after this California law.

Our amendment would have indexed non-economic damages at the rate of inflation, which comes to about $877,000 in today’s market. Certainly a far more reasonable number than $250,000.

This amendment would also have weeded out frivolous lawsuits by going after lawyers who continue to file claims that are not substantiated by evidence or expert opinion. Courts would be able to impose a “3 Strikes & You’re Out” law and suspend from practice for no less than one year, lawyers who file their third frivolous lawsuit.

Our comprehensive medical malpractice reform package also considers alternative dispute resolution, as a means of avoiding litigation, while at the same time, still addressing victims’ rights. We modeled this provision after a successful program at Rush Medical Center in Illinois.

This first-ever hospital based mediation program has proven to be very beneficial to the hospital and other health care providers, and brings closure for individual plaintiffs and defendants.

Over the years, the number of suits against Rush has declined and other hospitals have conducted mediations and have reported favorable results. Our amendment would have given health care institutions the training necessary to implement mediation programs.

Another rejected amendment would have given liability protection to those health care providers, who in good faith, report to report to state medical boards regarding the competence or professional conduct of a physician. These good-faith reporting health care providers would not be held responsible for attorney fees and costs incurred as a result of legal action.

According to data from the National Practitioner Data Bank from 1990 to 2002, just 5 percent of the 35,000 doctors with two or more payouts during that period, only 8 percent were disciplined by state medical boards.

Health care providers need better whistle-blower protections. Currently there is an imbalance between the legal obligation health care workers have to report errors or unusual incidents and the legal protections they have against retaliation once they report these incidents.

Greater liability protections for health care workers would help to ensure that future medical errors are not made, as well as give state medical boards the opportunity to work with colleagues on weeding out those doctors that prove an inadequate quality of care to patients.

Those who are going to support H.R. 5 today will return to their respective congressional districts during the August recess and brag to the doctors that they voted in favor of medical malpractice reform.

What they will not tell their constituents is that H.R. 5 is DOA when it is sent to the Senate for consideration, and that the other body would not think of entertaining legislation with inadequate caps on awards.

Nor will proponents of this bill reveal that H.R. 5, if signed into law, would not stem rising medical malpractice insurance premiums, because not one provision contained in this bill reforms the insurance industry.

Last night our colleagues on the Rules Committee squandered a valuable opportunity to actually fix the root problem of medical malpractice.

Let us send a message to the American people that we are not prepared to take the issue of medical malpractice reform seriously.

I urge all my colleagues to vote against H.R. 5.

Mr. HASTINGS of Florida. Mr. Speaker. I yield myself 5 minutes.

Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGRICH), my friend, for yielding me the time. I should say Doctor Gingrich and that I want him to call me Attorney Hastings so we get it clear as to who we are around here.

I rise in opposition to this closed rule. Like a broken record, my friends on the other side of the aisle are yet again blocking every single Member of this body, Republican and Democrat, from offering an amendment to this ill-conceived legislation. I might add, no hearings were held regarding same.

Under this closed rule the majority is committing the greatest form of political malpractice. The Republican medical malpractice bill does nothing to lower the cost of health care for low and middle-income families. Instead, insurance companies make out like bandits while the 45 million uninsured Americans continue to live without access to quality health care.

This is the third time in as many years that Republicans are bringing this incredible bill to the floor under a closed rule. In the last 3 years, 67 amendments have been offered to the underlying bill in the Committee on Rules. Republicans have blocked all 67 of them from being considered by the House.

The gentleman from Michigan (Mr. CONTERS) and the gentleman from Michigan (Mr. DINGELL), the ranking Democrats of the two committees of jurisdiction, offered a fair and balanced substitute to this legislation last night. Their substitute takes steps to weed out frivolous lawsuits, requires insurance companies to pass their savings on to health care providers and provides targeted assistance to physicians and communities that need it most. The House, however, will never have a chance to debate their proposal.

As they have done so often in the past, what Republicans cannot defeat, they simply do not allow.

The gentleman from Illinois (Mr. EMANUEL) and the gentleman from Arkansas (Mr. BERRY) were also prohibited under the rule from offering their common-sense amendment. Their amendment would have taken out language from the underlying legislation that protects manufacturers of medical products, including pharmaceutical
companies, from being sued even when they knowingly place a faulty product on the market.

For example, when Merck did an internal test on the side effects of Vioxx, it reported that only 1⁄2 of 1 percent of those treated suffered a cardiovascular event. A further investigation showed that Merck had actually doctorred the study when, in fact, 14.6 percent of Vioxx patients were negatively affected by the medication.

Unfair to hold insurance companies liable for the actions of others... the only insurance company that still marketed and distributed a drug which has caused 55,000 deaths? Congress should recite its own history.

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

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

Mr. Speaker, this mention of greedy, gouging insurance companies, I just want to point out to my colleague that the only insurance company that still is offering medical malpractice insurance in the State of Georgia is Mag Mutual. And in 2004 they made $7 million on their investment portfolio and still lost money because of the claims paid and defending all of these frivolous lawsuits.

Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), my colleague on the Committee on Rules.

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

Mr. Speaker, I rise today in strong support of H.R. 5, the Health Liability Reform Act of 2005, commonly referred to as the HELP Health Act.

If it seems like you have seen me speaking on this before, that is because you have. This legislative initiative has been done on Capitol Hill since the service in Congress. It is my sincere hope that the other body will answer the call of millions of Americans who have been impacted with the loss of their doctor and help rein in an out-of-control medical liability system.

I am very optimistic we can achieve this goal, primarily because my home State of West Virginia has passed very similar legislation. If West Virginia’s Legislature and Governor can put politics aside and work for the common good, then this Congress should be able to do the same.

Five years ago the medical liability climate in West Virginia reached a fevered pitch. Countless physicians, especially specialists, were beginning to leave the State, their home State, because of the high cost of insurance premiums. Our largest trauma center was forced to close because of lack of physicians. Many of these physicians were orthopedists, OB-GYNs, and neurologists, and for a rural State with already limited access to specialists, this was a critical blow to health care accessibility.

Individuals throughout the State were extremely concerned about the ability to find a doctor, keep a doctor, and the doctor that they love and trust leaving the practice of medicine. Thankfully, the leaders in West Virginia enacted sensible reforms that have stabilized our healthcare delivery system.

As a matter of fact, the hospitals in West Virginia have said one of the biggest benefits to this legislation, very similar to the legislation we have today, is that it stabilized the situation so they can now recruit and retain physicians in the State of West Virginia.

The HEALTH Act is needed on a Federal level because other States have not had the success of my State. This act puts in common-sense reforms to the tort system. I urge all to support the rule and to realize that this approach, which is similar to California’s approach and West Virginia’s approach, can work successfully and can be passed in a bipartisan manner.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. MCGOVERN), my good friend who serves on the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from Florida for yielding me time.

I rise in opposition to this rule and to the underlying legislation. This bill is a perfect example of the ironclad control that the pharmaceutical industry has over the Republican leadership of this House. It is so in your face, it is so out in the open, it takes my breath away.

Instead of improving the medical industry and providing protection to its consumers, H.R. 5 provides sweeping liability protections to drug manufacturers. H.R. 5 does nothing to address the dramatic escalation of insurance premiums and health care costs. Forty-five million Americans, 16 percent of our population, do not have health insurance. Placing caps on the punitive damages that could be awarded to victims of medical malpractice will not provide one single American with health insurance.

From the onset this bill has been handled improperly: no mark-ups, no amendments, no hearings. In fact, for the third time in 3 years, as the gentleman from Florida (Mr. HASTINGS) has pointed out, the Committee on Rules’ Republicans have prevented any House Members from offering amendments to this bill.

Last night the committee Republicans rejected all 15 amendments offered, including an amendment that would have stripped the bill of the special protections for drug companies. Over the past 3 years, Committee on Rules’ Republicans have rejected a whopping 67 amendments to medical malpractice legislation. Eliminating amendments and shutting down debate is not how this House should operate.

Why has this bill been rushed to the floor, bypassing both the Committee on the Judiciary and the Committee on Energy and Commerce despite the abundance of startling information in the headlines regarding the misconduct of drug industry giants like Merck, the creator of the deadly drug Vioxx?

According to testimony given by FDA scientist Dr. David Graham before the Senate Committee on Finance, Vioxx may have caused as many as 55,000 deaths and 160,000 heart attacks. I urge all to support the rule and to realize that this approach, which is similar to California’s approach and West Virginia’s approach, can work successfully and can be passed in a bipartisan manner.
Well, that is exactly what this bill does. By providing across-the-board immunities to drug and device manufacturers, the pharmaceutical industry would never be held accountable for injuring or even killing people.

Without the threat of full liability, there are no financial incentives for drug companies to keep life-threatening drugs like Vioxx off the market. Vioxx was always a dangerous drug. From its inception in 1999, Merck knew that Vioxx significantly increased the chances of heart attacks and cardiovascular problems. In 1999 and 2000, two clinical trials showed that people taking Vioxx had a fivefold increase in heart attacks.

It was not until 2002, after multiple requests from the FDA, that Merck reluctantly changed its warning label to include the severe risk of heart attack. Mr. Speaker, this was too little, too late. Vioxx should have been pulled from the market years ago, and its victims and victims’ families should have been compensated appropriately.

It was not until September 2004, after several lawsuits and testimony from high-level FDA officials that Merck voluntarily withdrew Vioxx from the market. And here we are, less than a year later, considering a bill that provides immunity for drug manufacturers that create and distribute unapposable, possibly deadly, drugs.

Mr. Speaker, everyone is aware of the dangers of Vioxx, and the fact that Merck continued selling it knowing of its dangers. How can this House in good conscience reward the drug industry for bad behavior? The American people deserve a better bill, a bill that adequately protects, not endangers them.

I would like to say to my friends on the other side of the aisle: if you want to protect irresponsible drug companies, this is your choice. Go right ahead and do it. But I am interested in protecting people. The least you could do is allow us to vote up or down on amendments that would hold the drug companies accountable.

There is no reason why, none whatsoever, why this rule needs to be closed. It is a disgrace that this has been brought to the House floor under a closed rule. I urge my colleagues to vote “no” on the rule and “no” on the underlying bill.

Mr. GINGREY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. WELDON), an internal medicine specialist.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time; and as he stated, I practiced internal medicine, but that was not the only type of medicine I practiced. I also practiced defensive medicine.

We can talk about medical malpractice premiums and the costs for doctors, and we can talk about suing drug companies, and we can talk about high premiums in States like West Virginia, which we heard about from the gentlewoman from West Virginia, how specialists leave the States. We had that problem in Florida. We had the neurosurgeons in Orlando threatening to leave because of the high premiums in Orlando. The trauma center would have been downgraded from a level one to a level two center.

But those are really not the issues. The real issue here is the incredible, incredible cost of defensive medicine. And I practiced it every day. I confess, I overused a test. I overused myself from being sued. And if you think this is just anecdotal, it is not, my colleagues. This was studied very nicely at Stanford University.

This is old data. It was published in the Quarterly Journal of Economics, 1996. They looked at California, and they looked at just two diagnostic codes, unstable angina, escharnic heart disease; and the study showed after the medical malpractice reforms went in place in California, the charges to the Medical Malpractice platform decreased. Guess what? Morbidity and mortality did not go up. Quality was maintained.

They estimated in that study, in 1996 dollars, that defensive medicine cost our health care delivery system $50 billion a year. It is estimated by today’s dollars that it is well over $100 billion a year.

Now, my colleagues want to take care of the uninsured and they want prescription drugs for senior citizens? Then do something about this very costly system.

Mr. WELDON of Florida. Mr. Speaker, the study earlier referred to follows: (From Forbes Magazine, Jan. 27, 1997)

**RX: Radical Lawyerectomy**

(By Peter Huber)

How do you trim $20 billion a year from Medicare? That’s about what it will take to stave off bankruptcy. The easiest way: amputate lawyers.

It can be done. In 1996 Congress immunized community hospitals from medical malpractice suits. The federal government now covers the claims incurred by these federally subsidized clinics—claims are heard by a judge, not a jury, and there are no punitive awards. The clinics saved an estimated $90 million in malpractice insurance. That funds treatment for an additional half million indigent patients.

Why stop there? The country spends about $8 billion a year treating elderly heart-disease patients. Cap awards, abolish punitive damages, limit reimbursement, and create special limits on medical malpractice suits, and you reduce hospital expenditures on cardiac patients by 5% to 9%.

If limits like these had been written into federal law, nationwide spending on cardiac disease in the late 1980s would have been $600 million a year lower. Extrapolate these results to medical spending generally—a deplorable but reasonable enough basis for estimation—and you find that tort reform would save the country as a whole over $50 billion a year.

But how much more negligent medicine would that encourage? How many more cardiac patients would die? How many more patients would get infected and suffer a second heart attack as a result? The best estimate: None at all. Nor would any true victims of negligence go uncompensated. The reforms we’re talking about here don’t eliminate liability, they just place sensible limits on windfalls and double-dipping. They are in fact already part of the law of the states.

The numbers I cite come from a very important paper, “Do Doctors Practice Defensive Medicine?” written by Daniel Kessler and Hal McClellan, both at Stanford University. The paper appeared in the May 1996 Quarterly Journal of Economics.

The authors analyze data on all elderly Medicare beneficiaries who claimed to have had a serious heart disease in 1984, 1987 and 1990. The study correlates spending for medical care with state tort laws. About three patients in five in Florida died in 1990 while there were no direct limits on rights to sue. But two in five were hospitalized in states that did. Direct liability limits have clear, strong effects on medical spending; the study concludes.

But that’s just the first half of the story. Previous studies—most notably one conducted by Harvard Medical School—asked panels of doctors to review patient files and attach subjective judgments about adverse outcomes and deficient treatment.

Much of the “negligence” identified in this way is not significant, is not a sin by the osten-sible victim. Studies like this didn’t reveal much about the consequences of malpractice litigation because that information is hidden down the consequences of malpractice itself.

With elderly cardiac patients there are objective standards for assessing ineffective care. Patients die. And if you look just one cardiac ward not long after discharge. Analyzing the record on these solid criteria, Kessler and McClellan reach a second, clear conclusion: None of the liability reforms studied “led to any consequential differences in mortality or the occurrence of serious complications.” If liability doesn’t force doctors to provide better treatment, why does it boost the cost of medicine so sharply? Unlimited liability gets you more medicine, not better. Lawyershy doctors administer tests wildly, and hand off patients to specialists with great alacrity. They know that the surest way to avoid liability is to dispatch your problem patient to someone else—a lab technician or another doctor. This can go on indefinitely. It’s very expensive. And medically useless.

Congress has generally left medical malpractice reform to the states. When Medicare and Medicaid patients sneeze, it’s the federal Treasury that catches cold. No principle of federalism requires federal tax payments. Montana’s doctors spend $10 of Mississippi medicine ordered up by the lawyers there, not the doctors or patients.

The best place for Congress to balance the Medicare budget is on the backs of trial lawyers. These lawyers are not old, not poor and not needed.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 and 1/3 minutes to the very distinguished gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I want to thank my colleague for yielding me this time.

I was a sponsor of the Vioxx amendment, to strip out the protection of the pharmaceutical industry. As Americans are watching this debate here, here we are on the floor debating about protecting the pharmaceutical industry from all liability in a protection that any other industry in America would receive, and on the other side of the screen the American people are going to be watching the trial on Vioxx.
down in Texas, where a marathon runner, who was also a personal trainer, and who took Vioxx for 6 months, died a premature death. They will see what this Congress is doing on that civil case.

Now, we know from the head of FDA that by their estimate 55,000 Americans died because of Vioxx and the medication. Yet my colleagues want to deny that man’s family their day at trial and give this industry, the only industry in America, single protection.

Last year, my colleagues voted for a prescription drug bill to give the pharmaceutical industry $132 billion in extra profit, and now you want to give them liability protection. This Congress is like the gift that keeps on giving. You just do not know how to stop yourself.

Now, there is a place to redress these grievances. It is called the courtroom. With 55,000 deaths, have you no shame? Have you no respect for what is going on in America? The American people will see what is being done and understand the cost. But Merck, with Vioxx, is not the only pharmaceutical company. There is Beckstra, accutane. There is phenfen. Those are just some of the medications where other companies have not provided the FDA the material they needed to make the decision, and then, after the fact, after the consequences, those drugs get pulled.

What is ironic about this whole piece of legislation is very simple. Just a year ago, many of our colleagues on the other side of the aisle joined us in agreeing that the FDA did not have the authority, the capability, or the funding to regulate the drug market. We were talking about in this very Chamber, on both sides of the aisle, setting up another whole entity to regulate this agency. So now what do we do in the dark of night, and nonrelevant to the medical malpractice, additional protection, to stick in a provision to protect the pharmaceutical industry because the FDA approval somehow gives them a Good Housekeeping seal when you said here in the well that the FDA was not doing its job.

George Orwell would smile upon this Chamber for the hypocrisy that runs free. You have done it with the pharmaceutical industry in the prescription drug bill last year, with $132 billion in additional profits over 10 years, and now you give them liability protection that no other industry in the Nation has, to our knowledge. And all the while Americans will watch their TVs, read in their newspapers, and listen on radio of the case of an individual’s death because of the medication he took that was prescribed, and Merck, the company, had data before that drug got approved that it would lead to heart attacks and premature deaths.

The right forum is the American court. Yet my colleagues want to do this. Let us have an up-and-down vote. Do not be scared. Do not hide behind some little rule. Come on out here. Put it out on the table, and let us have a vote. The Senate knew it was wrong and pulled it out. So do not hide behind the rule. If this is what you want to do, let us have an up-and-down vote. You can put your votes right up there if you agree with this industry, and then the American people can see what it is all about.

I would recommend to my colleagues on the other side that there is a gift ban here. You gave them $132 billion in additional profits last year. There is a gift ban. The gift has got to stopping giving to the pharmaceutical industry.

Mr. GINGREY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. PRICE), my physician colleague, an orthopedic surgeon.

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the underlying bill.

Our system is woefully broken. As a physician for over 25 years, as an orthopedic surgeon, I have seen a vast array of medical and surgical problems. I have also stood back and been astounded, astounded by certain surprising occurrences.

One was with a patient who was cared for by one of my partners. Not too long ago, across this land, we asked patients to identify whether their surgery was to be done on the right side or the left side so that we did not operate on the wrong leg or the wrong arm. And we asked the patient in the preoperative area to identify which side was the correct side. This one patient marked the incorrect side. The patient did. He marked the wrong side on purpose. On purpose.

Thankfully, thankfully there were enough checks and balances in place in this hospital that it was caught just before the surgery began. When asked why he marked the wrong side, he said, I thought I’d take a chance and see if I could make some money.

This is the lottery mentality. This is the climate that we are in out there. Our system is woefully broken. The mentality in the system that we have right now drives hospitals to close, and it drives doctors to end their practice. And patients, then, lose the ability to see their docs.

To ensure Americans have access to the highest-quality care, I encourage my colleagues to support both the rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Arkansas (Mr. BERRY), who is a farmer and a pharmacist.
to be all over the place. Let us just hope it is not someone that is near and dear to you.

For me, there is not enough money to repay if you hurt my children or grandchildren. My grandson is sitting out back today. I have got three other grandchildren. There is not enough money in the whole wide world. And yet you all would limit their ability to be repaid to $250,000. That is, on its face, absolutely and utterly ridiculous; and why you would want to do that is beyond me.

And why you would want to do that is beyond me, and why you would want to do it for the drug companies is certainly beyond my ability to understand. But if you do it, you will ultimately be held accountable.

Mr. GINGREY. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, eight States have specifically focused on pharmaceuticals and punitive damages and statutorily provide an FDA regulatory compliance defense against such damages. Those States are: Arizona, Colorado, Illinois, New Jersey, North Dakota, Ohio, Oregon and Utah.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise in support of the rule and the bill. Without a doubt, medical liability lawsuits and the extravagant awards drain vital resources from our health care system, and the most important resource being drained is doctors.

In Chester County, Pennsylvania, where I live, which happens to be the wealthiest county of the 67 counties in Pennsylvania, we have no more trauma surgeons. One-third of Pennsylvania doctors in high-risk specialties said they plan to leave the State because of the high malpractice insurance rates. Seventy percent of Pennsylvania doctors have considered closing their practice because of the cost of medical malpractice insurance.

A few years back, the Lancaster Health Alliance, another county I represent, was planning to open a new clinic to serve the poor in Lancaster, but a $1.5 million hike in malpractice insurance forced them to abandon the project.

In Pennsylvania and many other States, we have a crisis on our hands, and the cost of this crisis is measured in terms of doctors leaving, hospitals closing, new clinics not being built, and patients not being served. H.R. 5 is the right answer for the crisis. I urge my colleagues to support the legislation and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I oppose this rule, and I oppose this over-reaching bill. A lot of people on the other side of the aisle are trying to claim that caps on awards for victims of medical malpractice will help doctors. Some are claiming that caps on awards will even help patients.

The other side has one crucial fact wrong. Capping medical malpractice awards does not mean insurance rates will fall. A recent study, looking at premiums over the last 5 years, found that claims payments have been stable while premiums have more than doubled. In fact, malpractice insurers’ total premiums were three times higher than total payments in 2004.

If we want to decrease medical malpractice insurance costs for doctors, let us talk about that. Let us talk about reducing medical errors by improving hospital resources and funding for graduate medical school education. Or let us talk about investigating insurance company pricing practices. But to pretend that this is medical malpractice awards set by juries and judges who have actually listened to victims’ grievances, to put the blame for rising premiums on victims that is not only cruel, it is completely false.

If we want to cap medical malpractice awards, let us call it for what it is: a gift to the insurance industry at the expense of innocent victims. This bill hurts patients wrongly injured or killed by bad doctors, does not lower medical malpractice rates for the so many good doctors out there, and really only benefits the insurance companies. The other side would rather drive a wedge between two noble professions: doctors and lawyers. I say that is wrong-headed. Vote down this rule; and more importantly, vote down this bill.

Mr. GINGREY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, listen to these numbers: 19, the number of States in a full-blown medical liability crisis; 72 percent, the number of Americans who favor a law that guarantees full payment for lost wages and medical expenses, but limits noneconomic damages; $70- to 127 billion a year, the cost of the defense of medicine, which could be significantly reduced by medical liability reforms; $10.2 billion, the amount of money paid out by licensed commercial insurers in 2002 for medical liability claims; 100 percent or more, the increase in liability insurance premiums that one-third of the Nation’s hospitals saw in 2002; 48 percent of Americans’ 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; 9.9 million, the increase in the number of Americans with health insurance if Congress were to pass common-sense reforms.

Mr. Speaker, we are not talking about anybody’s right to a redress of grievances when they have been injured. It is the right of a provider of care or a facility or hospital practicing below the standard of care in that local community. There are no limits on economic awards. As I said earlier, that could be $5 million. And as I said earlier, when you get into a courtroom and you listen to the plaintiff’s attorney calculating the cost, the economic cost, a new home because of a disability need costing $450,000, an au pair, a companion to go to the movies with the person that was injured, and on and on and on, these economic costs sometimes are astronomical.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise as an opponent to the rule that is before us, and I will vote “no” also on the bill.

I would like to go back to one of the speakers just a few moments ago who mentioned in his State Mag Mutual. Mag Mutual is one of the 12 largest monoline medical malpractice insurers in the United States. And in 2004, coincidentally, they had 216 percent above what is adequately called their surplus. They have excess surplus.

We have a crisis, we have a problem, but I personally believe that we are attacking the wrong folks in order to resolve the problem. The key words here are insurance reform. It is true that due to premium increases, the cost of practicing medicine in the State of New Jersey is rising at an unsustainable pace, but not for the reasons that the proponents of H.R. 5 are claiming.

According to the Kaiser Family Foundation, medical malpractice premiums are not rising because of claims or settlements. In fact, medical malpractice pay-outs have increased by 5.7 percent since 2001, and this is the chart to prove it. Payouts increased by 5.7 percent and 120 percent increase in premiums, you have the wrong dog in this race. Premiums nationally have risen over 120 percent in the same period. That is the real story.

Monetary caps are not the answer. You have not addressed the example that was put before this body: The Vioxx. Nobody wants to face that. Nobody wants to address that. A woman injured, cannot provide, cannot have a pregnancy, cannot give birth to a child, $250,000 cap. You have to be kidding me. I want that to be addressed. Monetary caps are not the answer.

Actually, the premiums in States without caps on damages are almost 10 percent lower than those with caps.

In California, Mississippi, Nevada, Ohio, Oklahoma, and Texas, insurers have continued to operate despite the fact that these States passed caps. And what happened in California, they had Proposition 103. That is what leveled off. If we consider it leveling off, the antitrust exemption that rates below never comes down.

It is a gift to the insurance companies, the HMOs, the medical institutions that harm patients and are filled
with liability protections for manufacturers of defective or harmful health care products. This is plain and simple.

The Committee on Rules prevented any Member from offering amendments to this legislation. It is too serious. We are talking about life or death in many cases. As substitute amendments, the gentleman from Michigan (Mr. CONYNS) and the gentleman from Michigan (Mr. DINGELL) that takes steps to stop frivolous lawsuits, insurance reform and targeted assistance to the physicians in the communities who need it most. For these reasons I urge my colleagues to defeat the rule and this piece of legislation. H.R. 5.

Mr. GINGREY. Mr. Speaker, I yield myself 3 minutes.

A couple of minutes ago I was given some statistics. I want to continue in that vein. The gentleman from New Jersey (Mr. PASCRELL) just mentioned the situation in California. Of course, this bill, H.R. 5, is patterned after that very successful MICRA legislation. Medical Injury Compensation Reform Act, passed in 1979 in California. Here we are some 26 years later, and medical malpractice insurance premium rates have stabilized, growing only at about 6 percent per year.

But listen to these numbers in regard to whether people continue to get just compensation for their injuries when you do have a cap on so-called noneconomic or pain and suffering.

September 2003, 9-year-old boy, San Francisco jury awarded $70.9 million in compensatory damages after finding a hospital and a medical clinic negligent for failing to diagnose his metabolic disease.

December 2002, $84,250 million total award, Alameda County, a 5-year-old boy with cerebral palsy and quadriplegia because of delayed treatment of jaundice after birth.

January 1999, $21,789 million award, Los Angeles County, newborn girl with cerebral palsy and mental retardation because of a birth-related injury.

October 1997, $25 million total award, San Diego County, boy with severe brain damage, spastic quadriplegia, mental retardation because of too much anesthesia administered during a procedure.

November of 2000, $27,573 million, San Bernardino, California, 25-year-old woman with quadriplegia because of falling spinal injury.

July 2002, $12.5 million, Los Angeles County, 30-year-old homemaker with brain damage because of lack of oxygen during recovery from surgery.

Mr. Speaker, people are not being denied access to our opportunity to redress their grievances when they have been injured when someone has practiced below the standard of care. No physician member of this body, no physician in this United States would want anything like that. We want people to recover when one of our colleagues have indeed caused that harm.

Mr. Speaker, we know of cases in our own hospitals where lawsuits are brought against one of our colleagues where we know they practiced below the standard of care, and we are the biggest cheerleaders for the plaintiffs in those situations. H.R. 5 has nothing to do with that.

Mr. Speaker, we are just limiting this nematocytic so-called pain and suffering. It has worked in California, and it will work in the rest of the country.

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 went to school and almost became a physician. I do not know what there is about some of the damages that the gentleman from Georgia calls so-called damages. I do not know how brain damage, losing my legs, double mastectomy, those kinds of things, are so-called punitive damages. If doctors commit those kinds of errors, they ought to be held accountable, and juries are the best place for that to occur.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. DeFAZIO).

Mr. DeFAZIO. I thank the gentleman yielding time. Mr. Speaker, this is a perfect bill. It must be perfect because not one amendment will be allowed, including my amendment. Now, the Republicans say free markets. We want free markets. How come we do not have a free market in insurance, insurance industry is exempt from the antitrust law. They can and do get together legally and collude to drive up the price of insurance for every American in every line of insurance. Not just medical malpractice. That is legal for the insurance industry. That is not legal for the two corner gas stations. They would go to Federal prison. It is not legal for any other industry in America. But they would not allow a vote on my amendment just to say, let us have a market in insurance. Let us take away their antitrust exemption. Let us have competition. Maybe that will lower prices. They seem to believe in competition until their pockets are being filled at election time by an industry that is exempt from competition. What the insurance industry is going to do to solve the problem here tonight with this bill.

Now, the other thing the gentleman from Georgia is not talking much about is why we should exempt the pharmaceutical industry for deadly and dangerous drugs, people who have died and been seriously injured, from any liability. What other industry in America has that exemption? So this is sort of a perfect bill; is it not? The two largest contributors to the Republicans are the pharmaceutical companies. In industries. The insurance industry is exempt from competition and antitrust law, and now they want to exempt the pharmaceutical industry from having to pay people for having killed their spouse, their children, or having perhaps caused so-called brain damage or a so-called heart attack or something else with a defective product. That is unbelievable.

I wish the gentleman would spend the rest of his time talking about why the pharmaceutical industry needs an exemption when they have actually maimed or killed people. If we are going to extend it to the pharmaceutical industry, how about the automobile industry? We have got a lot of industries in America that could use an exemption from liability that have to pay and go to court now. But, no, they are saying the pharmaceutical industry should not have to do that, because, as we know, they have the best interests of Americans at heart. That is why they do not want to allow us to import cheaper drugs from Canada, and they are threatening the Canadian Government. That is why they are the most consistently profitable industry in America when our seniors are cutting their drugs in half. No, they need protection from this horrible scourge of being sued when they have sold a defective product. Like Vioxx and actually concealed the tests from the American people and perhaps from the FDA.

I wish the gentleman would spend the rest of his time defending the antitrust exemption for the insurance industry, because if he believes in free markets, he should support my amendment. It should be part of this bill. We should get to vote on that. We should say, let us have competition in insurance. That will help the doctors. It is not the total solution, there are other things that need to be done, but that certainly would help the doctors.

It would help every other American with every other line of insurance, too. Your car insurance might come down. Your homeowner insurance might come down. But they do not want to allow that vote, and now they want to have a huge new exemption for the pharmaceutical industry. I guess we know who is lining up behind their next campaign with very generous contributions.

Mr. GINGREY. Mr. Speaker, I yield myself 2 minutes.

I am sure the gentleman from Oregon was not questioning anyone's motives. In his remarks, I think maybe the section of H.R. 5 that says no punitive damages to a pharmaceutical company, a drug maker or a medical products manufacturer that makes something, a drug or a medical product, that has been safe, it has gone through all FDA testing, there is absolutely no reason to suspect that the drug or product is defective based on phase 1, phase 2, phase 3 trials, and then something turns up. It only relieves that manufacturer of punitive damages. As I understand it, it is the other side that is calling that section the Oregon model, because that is the exact same thing that exists under Oregon law.
Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1 1/2 minutes to the gentleman from Illinois (Mr. Lipinski), a new Member, the son of a former Member of the United States Congress, our former colleague Bill Lipinski.

Mr. LIPINSKI. I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I rise today in opposition to the closed rule on H.R. 5 and the underlying bill. There is a need for medical malpractice reform, and the amendments offered in the Rules Committee could have made this a good bill for improving access and care. But the Rules Committee refused consideration of all the amendments, including one that I offered that would have directly reduced the number of malpractice cases in court by facilitating the use of mediation. Mediation has proven to be a cost-effective and timely way to settle malpractice cases. Rush Medical Center in Chicago now has one-third of its cases go to mediation instead of litigation. Other hospitals around the country have begun to try to attempt similar programs, but have hit the roadblock of a lack of mediators with a medical background who are available.

My amendment would have provided grants to set up mediation programs and to train medical malpractice mediators. This would have done exactly what this bill purports to do, reduce the burden of litigation.

We should have the opportunity to debate this and all the amendments proposed. I urge my colleagues to vote against this rule and vote against this bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in addition to about 75 percent of the American public that are in favor of some kind of malpractice award caps. The study showed that there were 497,140 malpractice award caps. The study showed that there were 497,140 professionally active doctors in 1985 and 709,168 in 2001. The report found little evidence that caps are leaving one State for another State with malpractice award caps.

Mr. Speaker, I urge Members to vote "no" on the previous question so I can amend the rule to make in order the Emanuel amendment. This amendment would strike from the bill a provision granting immunity to manufacturers of medical products from being sued when it is discovered that those manufacturers withheld potentially damaging information from the FDA and the public. The amendment was offered in the Rules Committee yesterday, but, like all the rest, was defeated on a straight party-line vote.

Mr. Speaker, I ask unanimous consent to print the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request? [Unanimous Consent Given]

Mr. Speaker, I pro tempore. The SPEAKER pro tempore (Mr. BASS). Is there objection to the request? [Unanimous Consent Given]

Mr. Speaker, I yield myself my time.

Mr. HASTINGS of Florida. Mr. Speaker, what is a provision protecting the drug companies doing in a bill that is supposed to be about doctors' malpractice premiums? How does this provision ever get into this bill in the first place? My guess is that many of my colleagues who support this bill have been asking the same question and would vote to strike it from the bill if they were given the opportunity. But because the House will not have the opportunity to strike this embarrassing sop to the pharmaceutical industry from this legislation. Defeating the previous question will give Members a chance to vote on what has now been dubbed the "Merck loophole." This section is not just bad policy, Mr. Speaker, it is almost criminal. Every day we read about more evidence that the pharmaceutical company Merck concealed information about the risks of its FDA-approved drug Vioxx. I do not think any of my colleagues want to find themselves in the position of defending people who hid information about this drug that could have saved someone's life.

Vote "no" on the previous question so we can debate this important amendment. I want to make it very clear that a "no" vote will not stop us from Republican-led efforts to strike this ill-conceived language. We will still be able to consider the medical malpractice legislation on the floor today. However, a "yes" vote will prevent us from considering the Emanuel amendment to strike this ill-conceived language.

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

Mr. GINGREY. Mr. Speaker, I yield 1 1/2 minutes to the gentleman from Indiana (Mr. Burton).

Mr. BURTON of Indiana. Mr. Speaker, we had a situation a few years ago where on the homeland security bill at about 11 o'clock at night, they stuck language in the bill to limit class action lawsuits against the manufacturers of thimerosal, which is a preservative that is in vaccines, and 50 percent of it is ethyl mercury. We have hundreds of thousands of kids that have been damaged by ethyl mercury. It is called thimerosal. The language in this bill, and I want to read it to you, says, "No punitive damages may be awarded against the manufacturer or distributor of a medical product, or any supplier of any component of any medical product." It is supposed to be about doctors' malpractice legislation on the Homeland Security Act. This deals with the Vaccine Injury Compensation Fund, one of the negotiating things that we have had is the language that is being put in this bill that is going to stop that. That means simply is that if this passes with this language in it, the way I understand it, those people, those thousands and thousands of people that have been damaged by thimerosal, mercury, in vaccines will have no recourse, and they cannot get any restitution out of the Vaccine Injury Compensation Fund. The way it is right now, I do not know how this got in here, but I can tell you right now, this is not good. I want to support my chairman and the Rules Committee, but this language is not good.

Mr. DREIER, Mr. Speaker, if the gentleman will yield, there is an exception that is provided for vaccine injury in the bill. I think it is also very important to note, as the gentleman from Georgia said earlier, that this deals with equipment and pharmaceutical products that have been approved by the Food and Drug Administration. That is the reason that this is provided, because that kind of direction that has come from the FDA is included.
language in here that does exempt vacines?

Mr. DREIER. Section 10, Effect on Other Laws, there is a vaccine injury exemption that is included in the bill. I have got it right here. I am happy to show it to the gentleman.

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

Mr. Speaker, in concluding this debate on House Resolution 385, I would like to encourage my colleagues to not only support this rule but also the underlying bill. I want to thank all of those who spoke on behalf of the rule and applaud them for their willingness to address this problem in an honest and open fashion.

Unfortunately, some opponents of this legislation seem content to demagogu the issue and pander to those special interests who are determined to keep the playing field tilted in their favor.

Mr. Speaker, I include for the RECORD letters of the many organizations that have been submitted to me in support of this bill.

LETTERS OF SUPPORT

A. PIAA (Physician Insurers Association of America)
B. American Osteopathic Association
C. American College of Obstetricians and Gynecologists
D. American Academy of Ophthalmology
E. American College of Surgeons
F. The Society of Thoracic Surgeons
G. The Doctor's Company
H. Californians Allied for Patient Protection
I. Physicians Insurance
J. JPMSIC Insurance Company
K. American College of Physicians
L. American Society of Anesthesiologists
M. Premier Advocacy
N. American Association of Nurse Anesthetists
O. American Medical Directors Association
P. American Association of Orthopaedic Surgeons
Q. American Medical Association—Michael Maves, Executive Vice President
R. Chamber of Commerce
S. American Benefits Council
T. American College of Cardiology
U. American Academy of Otalaryngology—Head and Neck Surgery
V. American College of Osteopathic Familly Physicians

Mr. Speaker, some might not want to see reform, but I have list upon list and a binder full of organizations and individuals who recognize that we have a problem and they see H.R. 5 as the solution. Over 200 medical organizations from the American Medical Association, the American College of Surgeons, to the American Dental Association to the United States Chamber of Commerce have urged this Congress to act now, not later.

A recent survey by the Health Coalition on Liability and Access found that 72 percent of Americans favor a law that would guarantee full payment for economic losses like lost pay and medical costs, but would limit non-economic costs. With an overwhelming majority of the American people and most health care organizations in support of the language of this legislation, we in the House of Representatives cannot stand idly by with a good commonsense solution at our fingertips.

Again, this bill in no way, shape, or form limits the amount an individual can receive in economic damages. If someone’s hospital bill or lost wages costs $50,000, $500,000, or even $5 million, they can still be awarded the full amount in damages less attorneys’ costs and fees. If there are punitive damages that are applicable because a physician or health care provider deliberately, deliberately, causes injury to a patient, then punitive damages can be awarded double the economic damages.

So if it were $5 million worth of economic damages, then there could be $10 million worth of punitive damages.

The same thing, Mr. Speaker, is applicable to medical product manufacturers and the pharmaceutical industry that produces these drugs. The other side would like to believe that they were granted complete immunity. Absolutely not, if they knowingly withheld information. Only economic damages are limited; and punitive damages, as I say, would be calculated by a responsible formula.

Finally, H.R. 5 ensures that victims benefit from a fairer system and they receive a greater portion of their damages. Ultimately, the biggest winner in H.R. 5 is the American consumer-patient who will have better access to health care and lower health care costs. I think that alone testifies to the importance of this bill and the need to put partisanship aside for the sake of the people who sent us here to represent them. They deserve no less.

Again, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Texas (Mr. SMITH), who is the Courts, the Internet, and Intellectual Property Subcommittee chairman of the Committee on the Judiciary and floor manager of H.R. 5.

I again would encourage my colleagues to support House Resolution 385 and H.R. 5.

Mrs. CHRISTENSEN. Mr. Speaker, as most members of this body know, I am a physician, and a member of physician organizations who practiced family medicine for 21 years. So, I know this issue first hand, and I am deeply troubled about patients who will be denied just compensation under the approach this bill takes—caps on damages.

I am also outraged that physicians are being used as pawns in the game of political one-upmanship. I am outraged that the gentleman from Texas (Mr. BAERTON) for their timely consideration of this bill, as well as the gentleman from Texas (Mr. SMITH), who is the Courts, the Internet, and Intellectual Property Subcommittee chairman of the Committee on the Judiciary and floor manager of H.R. 5.

I again would encourage my colleagues to support House Resolution 385 and H.R. 5.

Mr. SENSENBRENNER. Mr. Speaker, I wish to include in the CONGRESSIONAL RECORD an explanation for my decision not to participate in legislative consideration of H.R. 5, the “Help Efficient, Accessible, Low-Cost, Timely Healthcare (‘HEALTH’) Act of 2005.”

House Rule III(1) states:

Every Member... shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

House precedents establish that “where the subject matter before the House affects a class rather than individuals, the personal interest of Members who belong to the class is not such as to disqualify them from voting.”

As a result, House precedent has held that a Member’s ownership of common
stock in a corporation, “was not, under House precedents, sufficient to disqualify him from voting on” legislation that benefitted the corporation in which that Member held stock. I currently own shares in at least two corporations that may benefit from the enactment of H.R. 5. Shares of these corporations are generally held, and do not represent “uniquely-held” financial interests. As a result, my participation in legislative consideration of H.R. 5 would not appear to violate current House Rules and established precedent. However, as in all matters susceptible to subjective examination, there are no bright line rules to determine whether a Member should not participate in legislation that may benefit that Member in a personal or financial manner. In common parlance, the term “conflict of interest” is subject to various interpretations. However, the House Ethics Manual states that this term “is limited in meaning; it denotes a situation in which an official’s conduct of his office conflicts with his private economic affairs.”

The House Committee on Standards of Official Conduct has admonished all Members “to avoid situations in which even an inference might be drawn suggesting improper action.” The Committee on Standards and Ethics has also endorsed the principle that “each individual Member has the responsibility of deciding for himself whether his personal interest in pending legislation requires that he abstain from voting.” I have concluded that my holdings in at least two corporations that may benefit if H.R. 5 is enacted into law, coupled with my Chairmanship of the Committee of primary jurisdiction over this legislation, raise legitimate questions concerning whether my participation in this legislation conflicts with my private economic affairs.

While this may be a gray area, questions concerning whether my participation in legislation may raise the appearance of a conflict of interest must be subject to no doubt. As a result, I wish to forcefully dispel any appearance of such a conflict by recusing myself from legisliative consideration of H.R. 5.

Participation in the political process, particularly voting on legislation, is central to maintaining the official responsibilities to which Members of Congress are sworn. In all of my public life, I have striven to energetically and conscientiously discharge my official responsibilities while preserving the public trust and confidence I have been elected to uphold.

While House rules may provide an important benchmark for determining the propriety of a Member’s decision to vote on legislation before the House, nothing can substitute for a Member’s conscience. For this reason, I hereby recuse myself from participation in legislative consideration of H.R. 5 during the 109th Congress.

Mr. LIPINSKI. Mr. Speaker, I rise today in opposition to the closed rule on H.R. 5, the HEALTH Act. There is a need for medical malpractice reform, and the amendments offered in the Rules Committee could have made this a good bill for improving patient access and care. I am deeply disappointed that the Committee refused consideration of all the amendments, including mine that would have reduced the number of malpractice cases in court by facilitating the use of mediation. Mediation has proven to be a cost-effective and timely way to address medical malpractice cases. Rush Medical Center in Chicago now has one-third of its cases go to mediation instead of litigation. Other hospitals around the country have begun to implement similar programs, but have been hindered by the lack of mediators with a medical background. My amendment would have provided grants to set up mediators and train medical malpractice mediators. This would have done exactly what this bill purports to do, reduce the burden of litigation. We should have an opportunity to debate this and all the amendments proposed, so I urge my colleagues to vote against this Rule.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to the rule and to the bill, H.R. 5. Republicans on the Rules Committee blocked the consideration of several amendments offered by me and my colleagues to this bill. This body should have the right to openly discuss and to consider each of these amendments.

One of the amendments blocked was one I offered that is modeled after the state of California’s 1975 reform laws (Proposition 103) which has been successful in leveling off insurance rates. My amendment would require the insurance commissioner or a similar public body in each respective state to hold public hearings when an insurer proposes a rate increase in premiums for medical malpractice liability insurance that exceed 15 percent. If a State has a lower insurance rate than 15 percent, this legislation would not apply.

Mr. Speaker, I believe that the issue of rising medical malpractice insurance premiums is best handled at the state level, as 29 states, including Illinois, have passed legislation to address this problem. However, if Congress is going to consider legislation, it should be comprehensive. H.R. 5 is not a balanced piece of legislation. Earlier this year, I supported the Class Action Fairness Bill because it was a product of bipartisan input and compromise. The bill we are considering today does not contain input from Democrats and fails to take a comprehensive approach to the problem of rising medical malpractice rates.

H.R. 5 is a caps only bill. Numerous studies show that caps alone do not lower insurance rates. According to the Medical Liability Monitor, states with caps on damages have average insurance premiums that are 9.8% higher than insurance premiums in states without caps on damages. Under H.R. 5 insurance carriers can still raise rates any amount and at any time, without justifying their rate increases. A bill that only places caps on non-economic and punitive damages but does not provide insurance reform will not solve our medical malpractice crisis today.

The insurance industry has been very clear: passing caps on non-economic damages will not result in reduced medical practice premiums. A recent study by the National Council of Insurance Commissioners revealed that medical malpractice carriers in Illinois raised their rates 13% last year, despite the fact that their direct losses only increased 3%.

Serious reform of the insurance industry must be part of any attempt to bring the cost of medical malpractice premiums down.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 385 H.R. 5—MEDICAL MALPRACTICE (“HEALTH” ACT)

In the resolution strike “and (2)” and insert the following

“(2) the amendment printed in Section 2 of this resolution if offered by Representative Emanuel of Illinois or Representative Berry of Arkansas or a designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 40 minutes equally divided and controlled by the proponent and an opponent; and (3)”

At the end of the resolution add the following new section:

“SEC. 3. The amendment by Representative Emanuel of Illinois and Representative Berry of Arkansas referred to in Section 1 is as follows: “Strike section 7(c)”.

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

The SPEAKER pro tempore (Mr. BASS). The question is on ordering the previous question.

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

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.
Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3045) to implement the Dominican Republic-Central America Free Trade Agreement.

SEC. 1. During consideration of H.R. 3045 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker in consonance with section 151 of the Trade Act of 1974.

SEC. 2. During consideration of H.R. 3045 pursuant to section 151 of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

SEC. 3. A motion to proceed to consideration of H.R. 3045 pursuant to section 151 of the Trade Act of 1974 shall be in order only if offered by the Majority Leader or his designee.

The SPEAKER pro tempore. The gentleman from California (Mr. Dreier) is recognized.

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

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

Mr. Dreier. Mr. Speaker, with today's consideration of the Dominican Republic-Central America Free Trade Agreement, we are now embarking upon debate on one of the most important national security issues of the 109th Congress. At the same time, we are addressing the extraordinarily important issues of border protection and economic growth in this country and throughout this hemisphere. These issues are becoming increasingly intertwined.

Just last week, India's Prime Minister stood right here in this Chamber and spoke very eloquently when he said the following: "Globalization has made the world so interdependent that none of us can ignore what happens elsewhere. Progress. At the same time, we are addressing the extraordinarily important issues of border protection and economic growth in this country and throughout this hemisphere. These issues are becoming increasingly intertwined.

Mr. Speaker, Prime Minister Singh is absolutely right. We cannot afford to pretend that poor, political, and economic conditions outside our borders do not affect the security of our Nation. As we work to spread democracy in Iraq, Afghanistan, and elsewhere to combat global terrorism, we must not neglect the anti-democracy, anti-American forces that are at work in Latin America.

Although our neighbors to the south have chosen democracy over dictatorship, their old oppressors still refuse to go quietly. Nicaragua's former communist dictator, Daniel Ortega, wants to return to power. He has tried time and time again, Mr. Speaker, to do that. And he is staking his campaign in large part on the defeat of the Dominican Republic-Central America Free Trade Agreement. He has good reason to do so. He has a company with Venezuela's Hugo Chavez, who is actively using his nation's oil proceeds to undermine democracy, free markets, and American interests throughout this hemisphere. Chavez clearly in the likes of Chavez and Ortega clearly go against our best interests, against the security we seek; would bind together other anti-American parties like Cuba's Fidel Castro.

Mr. Speaker, The Washington Post editorialized just yesterday in strong support of the Dominican Republic-Central America Free Trade Agreement, and they said the following: "The defeat of CAFTA would help . . . anti-Americanism by striking a blow against Mr. Chavez. For them, the retreat of the United States from partnership with Central America would be a major victory."

Mr. Speaker, ceding this victory to the likes of Chavez and Ortega clearly goes against our best interests, against our national security priorities. It would be the beginning of a return to the era that Central Americans, with the help of the United States, worked so hard during the decade of the 1980s to leave behind, an era marked by totalitarianism, unrest, and the poverty that breeds desperation. But a return to the Ortega style of government would have grave consequences for the United States of America as well. Without political and economic freedom, there can be little hope for the future. And without hope, Central Americans with families to feed will look north for economic opportunity.

Nearly all illegal immigrants to the United States come in search of work because of limited opportunity at home. In fact, Mr. Speaker, T.J. Bomer, the president of the National Border Patrol Council, estimates that 98 percent of illegal immigrants come to this country for economic opportunity, seeking a chance to feed their families.

If we want to combat illegal immigration, we must address its root causes. By providing the tools for economic growth in the region, DR-CAFTA will create new opportunities and provide hope for the future in the region. Where these people are, the people of Central America will have a powerful incentive to stay and build their lives in their own countries rather than make the dangerous and illegal attempt to enter our country.

Rejecting this agreement, Mr. Speaker, would simply sanction, even exacerbate, the problem of illegal immigration. We simply cannot afford the fact that the strength of our democratic and free market institutions throughout the globe, particularly in our own backyard, directly impacts our own security. By the same token, we cannot afford the fact that the worldwide marketplace directly impacts our own economic strength.

Mr. Speaker, we all know and everyone recognizes that we have a global economy. We live in a world that continues to shrink, enabling us to, in the words of the New York Times columnist Tom Friedman, "reach around the world farther, faster, deeper, and cheaper than ever before."

Mr. Speaker, new technologies are connecting the world's entrepreneurs, risk takers, creative thinkers, and capital, including human capital. This worldwide network has been a powerful engine for growth in the United States economy. We have grown to an $11.5 trillion economy. We are the world's largest exporter and importer. We lead the global economy not just by sheer size but by the force of our innovation.

But we cannot take our global economic leadership for granted. The worldwide economy is dynamic and fast paced. China has emerged as a global powerhouse and shows no signs whatsoever of slowing down. India, as we heard from the Prime Minister, is becoming a formidable competitor in one of our core areas of strength, the high-tech sector. Passage of the Dominican Republic-Central America Free Trade Agreement represents an opportunity we simply cannot afford to forfeit, the chance to dramatically strengthen our competitiveness as a country and as a region.

Further integration of our regional economy will allow us to draw upon our strengths and resources to produce locally and compete globally.

[1830]

The DR-CAFTA and U.S. economies already complement each other well. The textile and apparel industries are a great example of that, Mr. Speaker. The DR-CAFTA region represents our second largest market for fabric and our largest market for yarn. Nearly 25 percent of U.S. fabric exports and 40 percent of U.S. yarn exports are sent to the Central American countries and the Dominican Republic. The region exports nearly all of its apparel, 97 percent of its apparel is made up of less than 2 percent U.S. content. Again, that is 80 percent versus 2 percent in terms of American-made content.
Now, I ask my colleagues, Mr. Speaker, in the face of the Chinese juggernaut, why on Earth would we turn our backs on the very region that supports U.S. industries and offers the opportunity for us to effectively compete with China and other global competitors?

Trade with the DR–CAFTA countries is so important precisely because of this global context. The U.S. economy will not be weakened as a result of the people of Latin America lifting themselves out of poverty, but it will be weakened if we reject the economic partnerships that make us strong and enable us to compete in the global economy.

In this interconnected world, isolation is simply not possible. The state of the global economy affects our economic strength. Our economic partnerships affect the prosperity of our neighbors and the security of our borders. Prosperity leads to a greater commitment of political and economic freedom; and strong, democratic institutions throughout the globe lead to greater security for our country.

National security and economic competitiveness must be addressed in a comprehensive way that fully accounts for this interconnected global context. With DR–CAFTA, we have the opportunity, Mr. Speaker, to do just that.

We can enhance our competitiveness while creating new opportunities for growth in the DR–CAFTA countries. By spurring economic growth, we can reduce the incentives for illegal immigration and strengthen democracy and the rule of law in the region. And, by supporting democratic institutions, we can advance our own security and our interests.

Mr. Speaker, I urge my colleagues to support this rule and the very important vote that we are going to have on the North American Free Trade Agreement so that we can enhance the quality of life and the standard of living for the people of the United States of America, for the people of the five Central American countries impacted by this, and the people of the Dominican Republic.

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

Mr. MCGOVERN. Mr. Speaker, I thank the distinguished gentleman from California (Mr. Dreier), the chairman of the subcommittee, and for yielding me the customary 30 minutes.

Mr. MCGOVERN asked and was given permission to revise and extend his remarks.

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

Today the House is debating a trade agreement of tremendous import not because the markets, exports or money involved are especially significant; the six countries involved, Costa Rica, El Salvador, Nicaragua, Guatemala, Honduras, and the Dominican Republic, are smaller in combined economic clout than the average midsize American city. Most of their products already enter the United States duty free, and our exports to them are modest.

No, Mr. Speaker, this debate is important because it brings into sharp focus the consequences over what our global economy should look like, of how we in the United States and our global trading partners seek to grow our national economies, create good jobs at decent wages, and generate the kind of revenue necessary to provide basic public goods and services, promote human health, and protect the environment.

That is why, Mr. Speaker, this rule is an outrage, an absolute disgrace. It is one of the most disrespectful rules issued by the Committee on Rules, which has become infamous for shutting down debate.

This rule allows for only 2 hours of debate on the CAFTA Implementation Act. That is just 60 minutes each for supporters and opponents of this agreement to make their voices heard on this very important and very controversial trade agreement.

I know that nearly every Member on this side of the aisle would like an opportunity to speak. But the way this rule is written will allow each of them to have just 18.8 seconds to make a statement, and the same holds true for those Members who support CAFTA. What a mockery of the democratic process.

In 1993, when the Congress debated the North American Free Trade Agreement, the rule granted Members 8 hours of debate; 8 hours, Mr. Speaker. Sadly, since Republicans have exercised control of Congress, we have seen the number of hours allotted on trade agreements, where now just 2 hours of debate has become the standard. Well, a couple of hours might serve for a debate on a Free Trade Agreement with Australia or Jordan or even Chile or Singapore, agreements that garnered fairly broad bipartisan support and were not viewed as very controversial.

But CAFTA is arguably the most controversial trade agreement that has come before this House since NAFTA, and the Members of this House deserve the ability to have a full and fair debate on this important trade agreement, and which has become infamous for shutting down debate.

Mr. Speaker, this is not a debate over whether or not to trade with Central America. We already trade extensively with Central American countries and the Dominican Republic. But this is a debate, Mr. Speaker, about people’s jobs, both here in the United States and in Central America. Now, maybe they do not care about jobs on the other side of the aisle, but to the average worker, it is a big deal.

I am tired of trade agreements that do not improve workers’ wage protections or benefits, but, rather, are a rush to the bottom that puts profits above people.

Since 2000, the United States has lost 2.8 million manufacturing jobs and 1 million high-technology jobs. We now run a deficit with China, and a $12 billion deficit with Mexico. Clearly, the rules of international trade have failed the American worker, the American standard of living, and the American dream, and have made American jobs our number one export. CAFTA will further this trend by rewarding companies that throw U.S. workers out on the streets and by creating jobs in countries where labor is cheapest, environmental laws are weakest, and where the rights of workers are violated and scorned.

But this rule, Mr. Speaker, will deny Members the right to debate these very serious matters.

I urge my colleagues on both sides of the aisle to reject this rule and demand the right to speak.

Mr. Speaker, today the House is debating a trade agreement of tremendous import—not because the markets, exports or money involved are especially significant—the six countries involved—Costa Rica, El Salvador, Nicaragua, Guatemala, Honduras and the Dominican Republic—are smaller in combined economic clout than the average mid-size American city. Most of their products already enter the United States duty-free, and our exports to them are modest.

Mr. Speaker, this debate is important because it brings into sharp focus the differences over what our global economy should look like; of how we in the United States and our global trading partners seek to grow our national economies, create good jobs at decent wages, and generate the kind of revenue necessary to provide basic public goods and services, promote human health, and protect the environment.

This is not a debate over whether or not to trade with Central America. We already trade extensively with all Central American countries and the Dominican Republic. In addition, we have special trade relations with all of them under the GSP and the Caribbean Basin Initiative.

Mr. Speaker, the months and weeks leading up to this vote have been filled with the sounds of battle between so-called “free trade” versus “fair trade.” Mr. Speaker, I am more interested in “smart” trade.

Smart trade is about who gets protected under this agreement and who does not.

Smart trade provides significant gains for U.S. workers and consumers, as well as businesses.

Smart trade supports and strengthens development, democracy and the rule of law.

Smart trade guarantees economic opportunity for those who may be displaced by trade.

Smart trade is concerned about what happens to the most vulnerable—in our country and in our trading partners.

Smart trade is sustainable, both here at home and abroad, because it is created in a fair way—and because it brings the benefits of trade to all countries, and to all the people of those countries, including the poor.
Judged against these standards and principles, CAFTA is neither “free” nor “fair” trade, and it is certainly not “smart” trade. Mr. Speaker, since the year 2000, the United States has lost 2.8 million manufacturing jobs and one million high-technology jobs. We lost $72 billion trade deficit with China and a $45 billion deficit with Mexico. Clearly, the rules of international trade have failed the American worker, the American standard of living and the American dream, and have made American jobs our number one export. CAFTA will further this trend by rewarding companies that throw U.S. workers out on the streets, and by creating jobs in countries where labor is cheapest, environmental laws are weakest, and where the rights of workers are violated and scorned.

Even so, CAFTA is not likely to provide any real increase in U.S. jobs or production. The six CAFTA countries together currently account for barely one percent of U.S. trade. In addition, about 80 percent of the people in CAFTA countries live at or below the poverty line—two dollars a day—or $400 to $900 a year, depending on which country we’re looking at. Almost half the population works in subsistence agriculture. The only significant export industries in these countries—except the production of Costa Rica— are apparel and agriculture.

This is the reality of life in Central America, and it should be a sobering reminder to all of us: The overwhelming majority of people in the CAFTA–DR region are not consumers of high-waged American goods—they are extremely vulnerable to the kind of dislocation caused by such trade openings.

Mr. Speaker, we should not visit the mistakes of NAFTA upon the people of Central America. We have taken just one example: wages for Mexican workers are even lower today than they were before NAFTA.

And while U.S. agricultural exports to Mexico greatly increased, millions of poor Mexican farmers lost what little income they had, often even losing their small plots of land. In order to survive, they now farm even more marginal land, cut down forests, or use chemical inputs that pollute the water and poison the soil. Is this what we have in mind for Central America’s campesino farmers? It is if we adopt this CAFTA agreement.

Mr. Speaker, a critical issue in strengthening democracy is to protect and expand human rights. Workers’ rights are human rights. They are not a luxury. As every wealthy nation can attest, they are central to improving living standards and quality of life, and creating a broad middle class.

While there are a number of labor provisions in the CAFTA agreement, they are enforceable under only one trigger: Namely, if a country fails to adopt its own labor laws, CAFTA countries’ labor laws, Mr. Speaker, are internationally recognized as weak.

Whether you are looking at reports from Human Rights Watch, Amnesty International, the International Labor Organization, the United States Department of Labor, or any of the Council of Labor-Management Relations—Central American labor laws are criticized for failing to meet international standards of freedom of association, the right to organize, and the right to bargain collectively. This doesn’t even begin to touch upon the lack of health and safety guarantees in the workplace.

Also universally acknowledged is that even these weak laws are not enforced. Ineffective judicial systems, coupled with the power exercised by political and economic elites, derail nearly every attempt to enforce current labor laws.

We had an opportunity under CAFTA to negotiate provisions that would have promoted labor rights, even in El Salvador, Guatemala, and Nicaragua. We have formed deep attachments to the people of this region, and I appreciate how far these countries have come since the wars there ended. I want to see their democracies thrive; I want to see their lives and livelihoods improve; and I think a good trade agreement could make a valuable contribution to these efforts.

But this CAFTA is not such an agreement. All the issues of concern that will be raised during today’s debate are not new. They have been cited and documented for the past 3 years in anticorporate statements between the U.S. and the Central American governments, during the negotiations, and after CAFTA was signed.

The central design for fast-track, up-or-down voting procedures on trade agreements was to place a premium on accommodation during the conception and negotiation of trade agreements—in effect, to pursue a bipartisan trade policy. But the DR–CAFTA negotiations turned its back on this process. Not just Democrats—but everyone and everyone who cares about labor rights, or environmental protection, or transparency and participation, or the need for access by the poor to critical life-saving drugs, or the vulnerability of critical agricultural or manufacturing industries, or the need to account for the vulnerability of the rural poor—were completely and totally shut down and shut out.

This is why this trade agreement in particular has been so universally criticized throughout Central American and the United States by religious leaders and communities, labor organizations, rank and file workers, environmental and women’s organizations, legal advocates, small farmers, and consumer groups.

When the U.S. Trade Representative announces there is absolutely no way for CAFTA to be renegotiated, I can only ask, “Why not?” If the fast track, one-vote-is-all-you-get process results in the defeat of this CAFTA agreement, then wouldn’t the House clearly be calling for a renegotiation of the agreement? Saying—Pay attention to our concerns and go back to the table? It took the Bush administration barely 1 year to negotiate this CAFTA—why not take some time to get it right?

Mr. Speaker, this agreement fails to learn from the mistakes of NAFTA. It fails poor workers and poor farmers throughout the CAFTA region, who make up the majority of the people. And most importantly, it fails our own workers, consumers and communities.

Veto it down, Mr. Speaker. Vote it down.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. Let me just say that one of our colleagues on the Committee on Rules, the gentleman from Utah (Mr. BISHOP), said we should make it retroactive, the 2 hours of debate. We clearly have been debating this issue for weeks and months, Special Orders have been taken out here, and we are looking forward to a rigorous debate not only during the hour on this rule, but for an additional 2 hours, or 3 hours this evening at this point.

Mr. Speaker, I yield 2 minutes to the gentleman from Miami, Florida (Mr. LINCOLN DIAZ-BALART), my very distinguished friend, the vice chairman of the Committee on Rules, and a great champion for political pluralism and democratic institutions in this region.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, every once in a while, a vote comes before us that is evidently more than important, and this is one such vote. This is an historic vote that we are taking today on a special relationship with the countries of Central America and the Dominican Republic. Those countries, their Presidents, their Parliaments, have taken a definitive step; they have resisted the totalitarian temptations, the destabilization efforts of the axis of Ortega and Chavez, with its hundreds of millions of dollars that he is pouring into these countries and the entire region to destabilize them. They have resisted that access, and they have voted for a special relationship with the United States.

Talk about pressure, I say to my colleagues. Mr. Speaker, the pressures that are genuine, that are extraordinary, are the ones that are felt by those countries, the countries of Central America and the Dominican Republic, to accept, to go forth with a totalitarian temptation, and they have rejected that.

They have provided troops to help us in the war against terrorism in Iraq. What would we be saying, Mr. Speaker, if we voted against CAFTA today?

“Thank you. Thank you for your help in Iraq. Thank you for progressing with democratic reforms, for establishing democracy. Thank you for your thanks. We do not want you to tie your histories, your destinies, your futures to the United States, which is what you have decided to do.”

We have an obligation, Mr. Speaker, to say, yes, we are proud of our special relationship with our brother countries of this hemisphere. We recognize that you are our allies, you are our friends. You have stood with us in peace, you have stood with us in war, you have decided to tie your futures to us, and we say, welcome.

That is what this vote is all about, Mr. Speaker. It is a critically important historic vote. Say “yes” to the rule, and say “yes” to this agreement. Say “yes” to CAFTA.

Mr. MCGOVERN. Mr. Speaker, at this time I yield 5 minutes to the distinguished gentleman from New York (Ms. SLAUGHTER), the ranking Democrat on the Committee on Rules, and someone who believes that we should have a deliberative process here in the House.
Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am deeply concerned that as this discussion on CAFTA moves forward that the majority will, once again, adhere to the temptation to twist, bend, and break off the rules of debate and consideration in order to meet their objectives, just as they did during the Medicare debate of the 108th Congress.

During that debate the vote on final passage was held open for a shameful 3 hours while the Republican leadership twisted arms and cut deals to make up their vote deficit. The events of that night constituted one of the worst abuses of power I have witnessed in my almost 20 years in this House.

In the aftermath, allegations of bribery were leveled by a Republican Congressman, and an Ethics Committee investigation followed closely behind, one that ended in the admonishment of the majority of this House.

It is no secret that, just like last time, the Republican leadership is desperately scrambling to find the votes necessary to pass this bill, which I and many of my colleagues strongly oppose, and I would warn my friends in the majority that we dare not see a return to those underhanded tactics used by the leadership during the 108th Congress. There should be no votes held open for 3 hours. There should be no unending, unending twisting on this House floor. The American people are watching this time.

Sadly, though, we are already seeing evidence that this pattern of abuse will once again carry the day. Last night in the Committee on Rules, we were given a paltry 1 hour’s notice by the Republicans that we would be considering the most controversial trade agreement this body has contemplated since NAFTA. And of the three contentious bills that were considered in the Committee on Rules, not a single amendment was allowed, nor even a single substitute. It was a shut-out of democracy. And coming from a country trying to export democracy to the rest of the world, it showed us on our side of the Committee on Rules that we do not have it right yet.

Even though the House rules clearly state that 20 hours of debate is appropriate for a trade agreement, we offered to accept only 8 hours as a compromise but were denied too much democracy for this leadership. For the most contested trade agreement this body has considered in 12 years, we will have a whopping 2 hours of debate, less time than it would take you to watch “Saving Private Ryan” on a DVD.

We were actually given more time to debate the renaming of five post offices Monday. Most high school debate teams spend more time considering the serious issues that face our country than we do here in the House. But CAFTA clearly warrants our full and unheld attention. This is a major piece of legislation that will affect the lives of every American. CAFTA threatens to export even more American jobs and encourages American companies to relocate their factories in other countries. It does not provide adequate protection for workers, consumers, the environment, and small businesses. And it does not provide any safeguards for improving environmental standards.

We need trade agreements that expand our access to the new markets and raise the standard of living for American families. This legislation falls far short on each of those standards.

As the arbiters of the rules of this hallowed institution, the Committee on Rules has a special responsibility to ensure that the integrity of the democratic process is preserved. That is why I was asked the Republicans on the Committee on Rules for their assurance that we will not again see the abuses of power and the trampling of the democratic process we experienced in the last Congress on the Medicare debate, because we should be having 8 hours of debate and a debate that moves the other way around. Their reply was that “rules would be followed,” but they must not have meant the Rules of the House of Representives when they made that promise, because what actually followed was a shut-down, a move for the majority to have it right yet.

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

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding me the time. I want to congratulate him on the work that he has done on free trade issues in this Congress.

Mr. Speaker, I rise in support of this rule and the underlying bill. To implement the Dominican Republic-Central America-United States Free Trade Agreement. This agreement is especially important for my State of Washington, which is one of the most trade-dependent States in the Nation.

Mr. Speaker, we live in a global economy. And while 80 percent of Central American and Dominican Republic products enter the United States duty free, American exports face tariffs of 33 to 100 percent or higher in these countries; this is simply not a level playing field.

By approving CAFTA–DR, tariffs on American exports will be drastically reduced or eliminated. In fact, under CAFTA–DR, 90 percent of U.S. exports will become duty free immediately and the remaining tariffs will be phased out over 10 years.

Mr. Speaker, more than half of current U.S. farm exports to Central America and the Dominican Republic will gain immediately duty-free access, including beef, wheat, wine, fruits, and vegetables.

In particular, the agreement includes a provision I worked for that would allow extension of the sugar program for another 3 years to allow Washington potato producers to fairly compete with Mexican competitors.

Mr. Speaker, this agreement will help potato growers in central Washington fairly compete with Canadian potato exporters who are subject to lower tariffs because of favorable trade agreements reached by Canada and Costa Rica. According to the Washington State Potato Commission, Washington potato exporters who are subject to similar duties. This does not help potato growers in central Washington, nor will CAFTA–DR, central Washington U.S. potato exports to Costa Rica have declined by 81 percent as a result of the Canada-Costa Rica agreement, and U.S. producers will continue to lose market share unless CAFTA–DR is approved.

Many associations in my State have voiced support for CAFTA–DR, including the Washington State Farm Bureau, the Northern Horticultural Council, the Washington State Hispanic Chamber of Commerce, the Washington Apple Commission, the Washington State Potato Commission, and the Washington State Farm Bureau.

Mr. Speaker, CAFTA–DR will help level the playing field for our farmers and tree fruit growers and is a crucial step forward for agriculture and many other industries that create jobs and play important roles in the long-term growth of our economy.

The Senate has approved this agreement by a vote of 54 to 45. It is now time for the House to do the same to ensure that we have been clear and the benefits that will provide will become law.

Mr. Speaker, I urge my colleagues to support the rule and the underlying bill.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Florid (Mr. HASTINGS) who believes that if 8 hours of debate was good enough for NAFTA, it should be good enough for CAFTA.
Mr. HASTINGS of Florida. I thank the gentleman for yielding me the time. Mr. Speaker, I thank him also for his articulate leadership on this issue and the others which affect working people throughout this country.

Let me outset, Mr. Speaker, that I opposed this closed rule and the limited amount of time to debate the underlying legislation. Like the owner of the restaurant in Casablanca who jeigned surprise at the illegal gambling in his club, let me just say that I am shocked that the majority would bring a bill of such importance to the House floor and only permit 2 hours of debate to be split by the 440 Members of the House of Representatives.

This is not about trade. Trade is a two-way economic street. And the simple fact of the matter is, no one can demonstrate to me what Guatemala and Nicaragua are going to be buying from Florida and elsewhere in the United States. It is a one-way agreement.

Look, NAFTA was bad for your district like it was for the State of Florida. This deal is going to make things worse. If CAFTA is like NAFTA, too many Americans will get the shaft.

Ten years of NAFTA have shown just how devastating these agreements can be for working families and the environment.

Florida has lost more than 35,000 jobs because of NAFTA. Industries that once were thriving and successful in the State of Florida and elsewhere in this Nation employing tens of thousands of hard-working Americans have been shipped south of the border where labor is cheap and environmental protections are but a figment of our imagination.

Mr. Speaker, I voted for NAFTA and the administration was unable to uphold the things that they said they were going to do with regard to the environment and labor standards. And I doubt very seriously if this administration can do any better than the previous one. My distinguished friend, and he is my good friend, the gentleman from California (Mr. DREIER), began his remarks this evening by saying national security and border security. I invite the chairman to tell me how it is our border security is better on Mexico because of NAFTA, or that our national security is better in western Palm Beach County, a region which I am proud to represent, and is our country's second most sugar cane-intensive area, unemployment is already above 15 percent.

Under CAFTA, the future of this industry, which provides more than 20,000 jobs to this area alone, will undoubtedly be in jeopardy.

Considering who wins and who loses with CAFTA, it is clear that only the most selfish of fat cats would favor this terrible agreement. I challenge any of my colleagues to raise a family on a minimum wage in America, and indeed to find a job in America when CAFTA has sucked yet more of our factories and other businesses out of our country.

But a bigger challenge would be to survive as a campesino in any Central American nation, where wages are even lower, where minimal controls are weak or non-existent, where there is little or no access to health care, and where openly complaining about working conditions could mean death or disappearance. This is what the majority claims they want to approve today. We should vote against it.

Mr. Speaker, I urge a "no" vote.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I have heard for so long we keep talking about NAFTA as if it was somewhat of a disaster. But I think there are some statistics that have to be really examined when we are talking about CAFTA.

Sure, there have been some jobs lost in this country because of NAFTA. There have also been some jobs created. In fact, there are many more jobs created since NAFTA than there are jobs that went overseas.

Since NAFTA was formed in 1994, U.S. exports of farm
carrying goods to Canada and Mexico have grown 55 percent faster than shipments to the rest of the world. And when you look down and see what has happened in Chile, actually, our exports have vastly outpaced our imports.

Now, let U.S. talk about what we are trying to do here. We are just trying to have fair trade. Right now, the Central American countries have a preference where their goods come into this country without paying any meaningful tariffs, and there are very few areas where they are restricted.

We simply now say give U.S. that privilege in Central America, and Central America says, yes, we will do that, because they know that that is good for their future.

And we have another thing to do think about. What about the security interests there? I was here and the gentleman from California (Mr. DREIER), began his remarks this evening by saying national security and border security. I invite the chairman to tell me how it is our border security is better on Mexico because of NAFTA, or that our national security is better in western Palm Beach County, a region which I am proud to represent, and is our country's second most sugar cane-intensive area, unemployment is already above 15 percent.

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Mr. Speaker, I urge a "no" vote.

Ms. MATSUI. Mr. Speaker, I thank the gentleman for yielding me the time. Mr. Speaker, I rise in opposition to the rule and the underlying measure to implement CAFTA. As we debate CAFTA, I can only express my disappointment from the restrictive rule limiting debate to the failure of the administration to use the full force and weight of the United States in negotiating all aspects of this agreement.

Because CAFTA has sparked much debate, the House needs robust discussion of this legislation. And during the Rules Committee hearing on CAFTA, I offered an amendment to allow 8 hours of debate, the same as for NAFTA.

But the Republicans on the committee voted down the amendment. And we have a mere 2 hours to debate an agreement, which in its entirety is over 3,600 pages, the implications of which may well determine the future direction of U.S. trade policy.

As a world leader, the United States has a crucial role to play on trade. We cannot step back from the global community. However, free trade must be tempered with meaningful policy which acknowledges that each trade agreement produces winners and losers, and it is our responsibility to do right by those displaced in the process.

CAFTA falls far short in this regard and is thus fatally flawed. Those flaws are apparent throughout CAFTA’s chapter 9 workers’ rights and enforcement and labor and environmental protections, for CAFTA offers only tokens and symbols.

In contrast are the intellectual property provisions where it is obvious the United States Trade Representative used the full weight of the United States to ensure protection for business interests.

This administration’s handling of workers’ protections relative to other issues raises troubling questions about their agenda for these negotiations. The only enforceable worker protections in CAFTA state that participating countries must enforce their own laws. It does not set any standards those laws must meet.

Yet CAFTA countries already have a history of failing to provide even minimal worker protections.

This is nothing within CAFTA to prohibit these countries from weakening their labor laws. If a CAFTA country wants to pass a law that encourages child labor, CAFTA merely requires that country to enforce its own law. These enforcement provisions come back from the previous accord governing trade with Central America established in 1984.

This is different than labor management debates here in the United States. This is about basic human decency and fairness. There is a reason for the bipartisan opposition to CAFTA. It cannot pass this Chamber on its merits.
Mr. Speaker, let me stand in opposition to the Central American Free Trade Agreement. Let me say at the outset that I do not reflexively oppose international trade. The previous speaker noted the trade agreements he has voted against. Let me talk about the US free trade agreements I have voted for, all of them from this administration: Australia, Singapore, Chile, Morocco; and in the past, China, GATT and WTO.

I know that done the right way with carefully balanced provisions, these agreements can expand the U.S. economy and create jobs. Trade can really be good for American workers and American businesses. Indeed, I believe we could have struck an acceptable agreement with Central America. I have no choice but to oppose this agreement because it failed to reach a crucial balance. In truth, it did not even come close.

CAFTA would exacerbate the crisis in our country's trade deficit, and it is completely unfair to U.S. workers and companies. We have already got trade deficits with every one of the CAFTA countries, and this agreement will only make that situation worse. What is more, it is the first time that the United States has negotiated a trade agreement with developing countries that have weak labor laws and histories of violent suppression of worker rights.

CAFTA should have stipulated that our trading partners adhere to basic internationally recognized labor standards like prohibitions on child labor, prison labor, and guaranteeing workers the right to organize. Instead, it only requires that those countries enforce whatever laws they happen to have on their books. Those laws are wholly inadequate, and they will only get worse because CAFTA will set off a race to the bottom. We are already seeing it. Some of the CAFTA countries have already taken steps to water down their labor laws so that the cheapest destination for foreign investment.

This CAFTA agreement passed up an opportunity to conduct trade the right way. It passed up an opportunity to expand the U.S. economy and create jobs. It passed up an opportunity to help our neighbors to the south develop safe and decent workplaces. It passed up an opportunity to reduce our country's trade deficit. It passed up an opportunity to do the right thing by U.S. workers and families.

I intend to oppose this misguided agreement, and I urge the rest of the Members of this institution to do the same.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to the very distinguished gentleman from Birmingham, Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I rise in support of the rule. Let me say that there have been several newspaper articles lately analyzing the failures of these side agreements that we had under NAFTA and China, NTPR, and the two fast tracks. And, in fact, here is one in a
Mr. MCGOVERN. Mr. Speaker, let me say to you, this President has honored his agreements, and I will just say that here it says, “Democrats opposing CAFTA have warned colleagues about last-minute promises in exchange for votes.” Side letters and so-called side agreements are not worth the paper they are written on,” said Sherrod Brown, Democrat of Ohio, Jan Schakowsky, Democrat of Illinois.”

There is a lot of truth to that. There is a record of broken side agreements, but not by President Bush. The Business Week says, “Signed, sealed and delivered. The history of broken side agreements.” That was in the paper about CAFTA.

Mr. MCGOVERN. Mr. Speaker, let me just say, if it is not in the agreement, it is not in the agreement.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. MENENDEZ), who believes that the debate on CAFTA should be longer than the vote on CAFTA.

Mr. MENENDEZ asked and was given permission to revise and extend his remarks.

Mr. MENENDEZ. Mr. Speaker, the Republican leadership has submitted a rule for CAFTA that makes a mockery of our Democratic process. The restrictive rule is part and parcel of a Republican leadership strategy to win passage of CAFTA at any cost, whatever the price to the taxpayer, whatever the damage to the fabric of our democracy. The Republican leadership has shown that when it comes to CAFTA, they will cross any line and stifle any voice. CAFTA workers here at home and devastate the lives of the rural poor in Central America, a region where the inequality of income is the leading economic and political challenge. It will widen the gap between the haves and have-nots, weaken labor and environmental standards, and set a dangerous precedent for future trade agreements.

Carnegie Endowment points out that under NAFTA, the rural population in Mexico suffered the greatest consequences, losing 1.3 million agricultural jobs. Repeating that outcome in Central America will leave only more of the poorest in the region to migrate north to further exacerbate the challenges we face in securing our border. It is appalling and inexcusable how President Bush has sold the CAFTA deal with one hand while busily cutting aid that helps the poor throughout Central America with the other. Not only is this agreement bad for Central America, it also undermines labor policy and workers around the world. Under this agreement, countries get paid for the abuses suffered by workers because the fines paid for violations go to the countries in which it was committed. Some justice.

Tonight will be a defining moment for this Congress. The American people are watching this debate, and they will judge us for waking up tomorrow to read that in the darkness of the night, the leadership of this House has passed yet another bill by holding a vote open for hours while the purveyors of threats and intimidation perform their work under cover of darkness. This ill-conceived measure is a bad deal for workers, a bad deal for America, and a bad vote.

Mr. DREIER. Mr. Speaker, as I listen to people malign the procedure we are going under, let me just say the procedure is the procedure that is prescribed by the 1974 Trade Act, which says, “No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate.”

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), a dear friend, a hardworking Member committed to free trade.

Mr. HENSARLING. Mr. Speaker, I rise tonight in support of the rule for CAFTA. For over 200 years America has been benefited from trade. It means American families can buy more, using less of their paycheck. Trade means being the consumer’s best friend, and it does not matter whether that competition comes from Houston or Honduras or El Paso or El Salvador.

Now, CAFTA is a very simple trade agreement regardless of what you hear tonight. It is the consumer’s best friend, and it does not matter whether that competition comes from Houston or Honduras or El Paso or El Salvador.

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In the Central American countries today, we have the Caribbean Basin Initiative. It has worked. It gives trade preferences to the Central American countries provided that they recognize international labor standards. The failure to do so allows us to impose trade sanctions. The threat has made progress in raising international labor standards and workers’ rights in the Central American countries.

Mr. Speaker, I do not expect the administration to perform miracles when they negotiate free trade agreements, but I do expect them to represent the priorities of our Nation. In the CAFTA agreement, they repeal the rights we currently have under CBI, under the Caribbean Basin Initiative. Therefore, CAFTA is left with a weaker standard than current law in regards to workers’ rights.

All CAFTA provides is for a country to enforce its own laws, regardless of how they may be; and then the sanction for failure to enforce their own laws that we have under the dispute settlement resolution are weaker standards. We cannot impose trade sanctions. All we can do is impose a fine, and that fine goes back to their own country. We cannot even enforce these weak standards.

You have to draw a line somewhere, Mr. Speaker. We have the constitutional responsibility on trade. We have to make that judgment. This agreement failed that regard.

I had hoped that we would be able to renegotiate so that we could have a strong bipartisan vote on CAFTA. After all, we did that with textiles, and we could have done that with workers’ rights. But this administration chose not to do it. In a way, Mr. Speaker, it is more important for a CAFTA agreement than some of the other agreements that have passed, for Chile and Singapore, Morocco and Australia, because of the promises these governments have made to the people of those countries. For people living in poverty, trade, if properly structured, holds out the promise of more meaningful economic opportunities and a better way of life. But trade without basic labor standards will not do that.

I think this agreement is not a good agreement for the Central American countries, and it is not a good agreement for the United States.

Mr. DREIER. Mr. Speaker, may I inquire of the gentleman how much time remains on each side.

The SPEAKER pro tempore (Mr. Bass). The gentleman from California (Mr. DREIER) has 5½ minutes remaining, and the gentleman from Massachusetts (Mr. McGovern) has 6 minutes remaining.

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

Mr. McGovern. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. Pascrell), who believes that 2 hours of debate is an insult to American workers.

Mr. PASCRELL. Mr. Speaker, I rise in strong opposition to this rule. Think of the voiceless, the poor for once, and not play and pray at the altar of the multinational corporations.

I just talked to a group of folks that came back from Nicaragua, and that you have the nerve to stand before this House and talk about those six governments of purity is an insult to our intellect. Some of these politicians that run these countries are despised by the very people in their country. It is those leaders that made the deal, not the people of those countries. In every one of those countries, the majority of the people are against this deal.

Trade agreements are not just tariff levels and quotas; they are human beings. By passing this agreement, Congress is out of its authority under article I, section VIII. We have done that under three Presidents in a row. Our CAFTA becomes a legally-bound treaty. It will supersede any legislation passed by this Congress.

And by the way, a slight detail: the CBO has told us that CAFTA will cost the American taxpayers $4.4 billion over the next 10 years. And since those in favor of CAFTA turn to this document, Mr. Speaker, this document shows that of the 14 agreements, the 14 agreements since Bush became the President of the United States, only three have been utterly righted. He has as bad a record as President Clinton.

Mr. DREIER. Mr. Speaker, I yield myself 30 seconds to say that the debate is an abuse of power. Mr. HOYER. Mr. Speaker, I have been a strong advocate for free trade and open markets because I believe that the American businesses and workers can compete in a global market. The United States is the most powerful Nation in the world, and it is incumbent upon us to foster global trade, to engage our partners in a system based on rules and law and to work to raise the living standards of working men and women both at home and abroad.

However, the centrality of free trade in our interdependent world cannot relax our commitment to working men and women to the peripheral. We must seek to provide a level playing field for American workers and improve living and working conditions for foreign workers by guaranteeing fair wages and basic workplace protections. I have consistently supported legislation and trade agreements that have furthered these goals.

I was hopeful the Bush administration would pursue these objectives in negotiating CAFTA and that we would ultimately be presented an agreement that advanced the cause of free trade, protected the rule of law, and generated economic development in countries in great need, and extended to U.S. workers, farmers, and businesses the advantages of expanded access to new markets. Regrettably, the agreement before us does not meet these goals.

Specifically, CAFTA fails to ensure the implementation and enforcement of the five core internationally recognized labor rights. Compounding the problem is the failure to allow trade sanctions to enforce the deal’s modest labor provisions. In other words, the enforcement structure is absent.
I am, therefore, regretfully unable to support the Central American Free Trade Agreement for its failure to guarantee basic workplace protections for Central Americans and a level playing field for American workers. It is important that we work together to develop the arguments. This is a critically important issue. NAFTA was an important issue. It was 8 hours of debate. This is one-quarter of that.

We are unable to fully develop the deficiencies in this bill with the 1 hour of debate that the minority will be given. Perhaps that is the point. Perhaps that is the objective. Perhaps the meaning of this rule is to shut us up, shut us out, and shut us down. That is a shame, that my colleagues do not have the confidence in their proposition that they are a priori to give it full airing, a full debate in the light of day. Why do these issues always come up in the late of night? I do not understand that. Oppose this rule. Oppose this bill. It is not good for America. It is not good for the countries that have signed it.

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

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

Mr. Speaker, fast track up-or-down voting procedures place a premium on consultation and accommodation during the conception and negotiation of trade agreements. But the DR-CAFTA negotiations turned its back on this process. Everyone who raised concerns about labor rights, environmental standards, or the vulnerability of key agricultural and manufacturing sectors was shut out. That is why this agreement has been so universally criticized throughout Central America and the United States.

Mr. Speaker, I am very familiar with Central America. I have deep attachments to the people, and I appreciate how far these countries have come since the wars there ended. I want their democracies to thrive. I want their lives and livelihoods to improve. And I think a good trade agreement could make a valuable contribution to these efforts. But this CAFTA is not that agreement, and this rule deprives Members of their democratic rights to speak on the floor of the House on this contentious issue.

It is shameful how the Republican leadership of this House continues to use the Committee on Rules as a weapon to undermine the deliberative process. It is disrespectful to American workers, and it is shortsighted to concede this debate. It is a disgrace. But, sadly, that has become the norm around here. I urge all my colleagues to vote down this rule and vote down this CAFTA bill.

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

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Morris, Illinois (Mr. WELLER), a hard-working member of the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule, as well as in support of the Dominican Republic-Central American Free Trade Agreement.

Let me ask a very simple question. Next door to you is a neighbor, and you are charged by your neighbor to enter his back yard. But then when he comes over to guard the back yard, he can come in free. That is really what this trade agreement is all about.

Right now, 80 percent of all manufactured goods made in the Dominican Republic-Central America come in duty free into Illinois, into my State in the United States, and 99 percent of all farm products from the DR and Central America come into Illinois and the United States duty free.

Now, is there reciprocity under the current status quo? No. Illinois corn faces a 20 percent tariff. Illinois soybeans a 30 percent tariff. Illinois pork a 40 percent tariff. Under DR-CAFTA, those tariffs are either eliminated immediately or phased out very quickly.

We make yellow bulldozers. Caterpillar is the biggest manufacturer in the State of Illinois and the biggest employer in my district. Those yellow bulldozers made in Joliet face a 14 to 20 percent tariff under the status quo. Under DR-CAFTA it is eliminated immediately.

Vote "yes" for DR-CAFTA. It is good for Illinois workers and good for Illinois farmers.

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

Mr. Speaker, back on November 6 of 1979, Ronald Reagan announced his candidacy for President of the United States; and in that announcement, he envisaged a free trade accord of all the Americas, where we could have the free flow of goods and services and capital and ideas.

This is a very important part of that vision which has not only been supported by Republicans, but President Clinton was a strong supporter of that notion, the free trade area of the Americas; back in 1993, by a 392-18 vote, passed the Caribbean Basin Initiative. And we have had great benefits from this very important problem that we have dealt with. Yes, the statute says up to 20 hours. The last time that happened was November 14, 1980. And once they started it, they pared it back.

We have been debating this issue for literally months. Special Orders and 1-minute speeches have taken place. It is time for us to vote. I believe we are going to have a great opportunity, a great opportunity, to enhance the standard of living for people in the United States and in this region. It is time for us to create an opportunity for us to better compete globally, and as we enhance the standard of living in Latin America, it will clearly help us with this very important problem that we have of border security and illegal immigration.

We have a win-win all of the way around. We have seen great benefits from trade. The much-maligned North American Free Trade Agreement has created a scenario whereby we have a trillion dollar profit in trade between Mexico and the United States. Mexico's population now has a middle class that is larger than the entire Canadian population. Yes, there is poverty; yes, it needs to improve, but clearly the cause of freedom is an important one. The cause of stability in our region is a very, very important one.

I urge support of this rule. I urge support of the Dominican Republic-Central American Free Trade Agreement.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes had it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3304

Mr. GERLACH. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3304.

The SPEAKER pro tempore. There was no objection.

SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART V

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure, the Committee on Ways and Means, the Committee on Science, and the Committee on Resources be discharged from further consideration of the bill (H. R. 3453) to provide an extension of highway, highway safety, motor
carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law authorizing the Transportation Equity Act for the 21st Century, 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 Alaska?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3493

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 “Surface Transportation Extension Act of 2005, Part V”.

SEC. 2. ADVANCES. —


(b) Programmatic Distributions. —

(1) Special Rules for Minimum Guarantees. — Section 2(b)(4) of such Act (119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “$2,158,000,000”.

(2) Program Distribution on Off-System Bridge Sectors.—Section 114(g)(3) of title 23, United States Code, is amended by striking “July 27” and inserting “July 30”.


(1) in paragraph (1)—

(A) striking “July 30” and inserting “July 30”; and


(2) by striking “82 percent” and inserting “83 percent”; and

(2) in paragraph (2)—

(A) by striking “July 27, 2005, shall not exceed $25,000,000” and inserting “July 30, 2005, shall not exceed $26,801,000,000”;

(B) by striking “$52,205,602” and inserting “$53,970,370”; and

(C) in paragraph (3) by striking “July 27” and inserting “July 30”.

SEC. 3. ADMINISTRATIVE EXPENSES. —


SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.—

(a) Authorization of Appropriations Under Title I of TEFRA. —

(1) FEDERAL LANDS HIGHWAYS.—


(i) in the first sentence by striking “$226,027,450 for the period of October 1, 2004, through July 27, 2005” and inserting “$228,250,000 for the period of October 1, 2004, through July 30, 2005”; and

(ii) in the second sentence by striking “$10,694,934” and inserting “$10,790,000”.


(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—


(B) IN لهذه المعلومة من تصريحات الستريت فير، لا يمكنني الانتهاء منلك. يرجى الرجوع إلى المصدر الأصلي أو مصادر أخرى للحصول على مزيد من المعلومات.
and inserting "$25,730,000 for the period of October 1, 2004, through July 30, 2005".


(2) by striking "$8,300,000 for the period of October 1, 2004, through July 30, 2005".

(a) CHARTER 1 HIGHWAY SAFETY PROGRAMS.—(b) STATE BUDGET SAFETY INCENTIVE GRANTS.—Section 157(h)(1) of such Act (118 Stat. 1151; 119 Stat. 336; 119 Stat. 378; 119 Stat. 394) is amended by striking "$92,975,342 for the period of October 1, 2004, through July 27, 2005" and inserting "$92,975,342 for the period of October 1, 2004, through July 30, 2005".


(c) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 336; 119 Stat. 378; 119 Stat. 394) is amended by striking "$35,178,082 for the period of October 1, 2004, through July 27, 2005" and inserting "$35,178,082 for the period of October 1, 2004, through July 30, 2005".


(2) CONTRACT AUTHORITY.—Funds made available by the amendments made by paragraph (1) and by section 7(c) of the Surface Transportation Extension Act of 2004 (112 Stat. 336; 118 Stat. 1150; 119 Stat. 336; 119 Stat. 378; 119 Stat. 394) shall be available for obligation in the same manner as if such funds were appropriated under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.


(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 3101(a)(8) of title 49, United States Code, is amended to read as follows:

"(8) Not more than $140,293,151 for the period of October 1, 2004, through July 30, 2005.;

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—(1) AUTHORIZATION OF APPROPRIATION.—Section 3101(a)(6) of such title is amended to read as follows:

"$6,002,740 for the period of October 1, 2004, through July 30, 2005.;

(d) EMERGENCY CIVIL UNREST.

"SEC. 3. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAP TER 1 HIGHWAY SAFETY PROGRAMS.

(b) HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED ROAD CORRIDORS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 336; 119 Stat. 378; 119 Stat. 394) is amended by striking "$4,315,069 for the period of October 1, 2004, through July 30, 2005" and inserting "$4,315,069 for the period of October 1, 2004, through July 30, 2005".


(2) CONTRACT AUTHORITY.—Funds made available by the amendments made by paragraph (1) and by section 7(c) of the Surface Transportation Extension Act of 2004 (112 Stat. 336; 118 Stat. 1150; 119 Stat. 336; 119 Stat. 378; 119 Stat. 394) shall be available for obligation in the same manner as if such funds were appropriated under chapter 1 of title 23, United States Code.
SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (2)(A)(iv)—

(A) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(B) by striking “$3,954,790” and inserting “$5,474,000”; and

(C) by striking “JULY 30, 2005” and inserting “JULY 30, 2005”;

(3) in paragraph (2)(B)—

(A) by striking “$2,465,754” and inserting “$2,470,000”; and

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(4) in paragraph (3)(C)—

(A) by striking “$41,959,900” and inserting “$41,306,850”; and

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”.  

(b) FORMULA GRANTS AUTHORIZATION.—Section 5336(a) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “$2,795,000,000” and inserting “$2,796,817,668”; and

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(3) in paragraph (2)(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(4) in paragraph (2)(C) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;


(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (1)(A)—

(A) by striking “$4,131,508” and inserting “$4,180,822”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(3) in paragraph (1)(B)—

(A) by striking “$4,151,508” and inserting “$3,320,548”; and

(B) by striking “$830,137”;

(d) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (a) by striking “$4,151,508” and inserting “$4,180,822”;

(3) in paragraph (b) by striking “$4,131,508” and inserting “$3,320,548”;

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “$4,131,508” and inserting “$4,180,822”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(3) in paragraph (2)(B) by striking “$4,026,164” and inserting “$4,108,695”;

(4) in paragraph (2)(C) by striking “$6,398,695,996” and inserting “$6,848,630,000”;


(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(2) in paragraph (3)(A)—

(A) by striking “$1,368,124” and inserting “$1,428,082”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(g) RESEARCH AUTHORIZATIONS.—Section 5338(k)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(2) in subparagraph (A)(vi)—

(A) by striking “$39,554,804” and inserting “$39,950,343”; and

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(4) in subparagraph (C) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(h) ORGANIZATION OF RESEARCH FUNDS.—Section 5338(e)(2)(B) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(2) in subparagraph (B)(viii)—

(A) by striking “$830,137” and inserting “$833,186”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;


(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (1)(A)—

(A) by striking “$10,548,674” and inserting “$11,048,600”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(j) FUNDING FOR NATIONAL OUTREACH AND INNOVATION CENTER.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 112 Stat. 357; 118 Stat. 312; 118 Stat. 361; 118 Stat. 399; 119 Stat. 394) is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(2) in paragraph (l)—

(A) by striking “$4,026,164” and inserting “$4,108,695”;

(B) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(k) LOCAL SHARE.—Section 3011(a) of the...
of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777(c)) is amended to read as follows:

“(T) $8,301,370 for the period of October 1, 2004, through July 31, 2005.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777(b)(4)) is amended to read as follows:

“(4) for fiscal year 2005.

For the period of October 1, 2004, through July 30, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $68,071,233, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) $8,301,370 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Conservation and Rehabilitation Extension Act of 2003, Part IV’’;


(3) FORMER OR LIMITATION ON TRANS- FERS.—Paragraph (2) of section 9504(d) of such Code is amended—

(A) by striking “July 28, 2005’’ and inserting “July 31, 2005’’;


(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUST-MENTS.—(1) During the period beginning on the date of the enactment of the Surface Trans- portation Extension Act of 2003 and ending on July 30, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the High- way Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503 of such Code, which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 31, 2005.

(2) by striking “Surface Transportation Extension Act of 2003, Part IV’’ each place it appears in this section.

The Speaker pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution and on adopting H. Res. 386.

The vote was taken by electronic device, and there were—yeas 226, nays 200, answered “present” 1, not voting 6, as follows:

[Roll No. 440]
July 27, 2005
NAYS—200
Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al

Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
MillenderMcDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler

Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ‘‘PRESENT’’—1
Sensenbrenner

NOT VOTING—6
Brady (PA)
Carson

Davis, Jo Ann
Leach

Murphy
Sánchez, Linda T.

b 1956
Messrs. ORTIZ, CARDOZA, CASE,
DAVIS of Alabama, and DAVIS of Tennessee changed their vote from ‘‘yea’’
to ‘‘nay.’’
So the previous question was ordered.
The result of the vote was announced
as above recorded.
The SPEAKER pro tempore (Mr.
BASS). The question is on the resolution.
The question was taken; and the
Speaker pro tempore announced that
the ayes appeared to have it.
RECORDED VOTE

Mr. HASTINGS of Florida. Mr.
Speaker, I demand a recorded vote.

VerDate Aug 04 2004

23:37 Jul 28, 2005

H6883

CONGRESSIONAL RECORD — HOUSE

Jkt 039060

A recorded vote was ordered.
The SPEAKER pro tempore. This
will be a 5-minute vote.
The vote was taken by electronic device, and there were—ayes 226, noes 200,
answered ‘‘present’’ 1, not voting 6, as
follows:
[Roll No. 441]
AYES—226
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite,
Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach

Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel
E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra

Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher

Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

PO 00000

Frm 00047

Fmt 7634

Sfmt 0634

Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan

Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)

Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
MillenderMcDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne

Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ‘‘PRESENT’’—1
Sensenbrenner

NOT VOTING—6
Abercrombie
Brady (PA)

Carson
Davis, Jo Ann

Leach
Murphy

b 2006
So the resolution was agreed to.
The result of the vote was announced
as above recorded.
A motion to reconsider was laid on
the table.
f

PROVIDING FOR CONSIDERATION
OF H.R. 3045, DOMINICAN REPUBLIC-CENTRAL
AMERICA-UNITED
STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT
The SPEAKER pro tempore (Mr.
BASS). The pending business is the
question of agreeing to the resolution,
House Resolution 386, on which the
yeas and nays are ordered.
The Clerk read the title of the resolution.
The SPEAKER pro tempore. The
question is on the resolution.
This will be a 5-minute vote.

E:\CR\FM\A27JY7.363

H27JYPT2


The vote was taken by electronic device, and there were—yeas 227, nays 201, not voting 5, as follows:

**ROLL CALL NO. 442**

<table>
<thead>
<tr>
<th>Name</th>
<th>State</th>
<th>Vote</th>
</tr>
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<tbody>
<tr>
<td>Berry</td>
<td>NC</td>
<td>Y</td>
</tr>
<tr>
<td>Berkley</td>
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<tr>
<td>Barrow</td>
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<td>Y</td>
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<tr>
<td>Allen</td>
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<td>Y</td>
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<tr>
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<td>CA</td>
<td>Y</td>
</tr>
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<td>Y</td>
</tr>
<tr>
<td>Akinti</td>
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<tr>
<td>Abercrombie</td>
<td>CO</td>
<td>N</td>
</tr>
</tbody>
</table>

The result of the vote was announced by the Clerk. So the resolution was agreed to. The motion to reconsider was laid on the table.

**PERSONAL EXPLANATION**

Mr. MURPHY. Mr. Speaker, due to illness, I was not present in the chamber on Wednesday, July 27, 2005, and was regrettably unable to cast my vote on rollcall No. 432, rollcall No. 433, rollcall No. 434, rollcall No. 435, rollcall No. 436, rollcall No. 437, rollcall No. 438, rollcall No. 439, rollcall No. 440, and rollcall No. 441.

Had I been present, I would have voted “yea” on rollcall No. 432, “yea” on rollcall No. 433, “yea” on rollcall No. 434, “yea” on rollcall No. 435, “no” on rollcall No. 436, “yea” on rollcall No. 437, “yea” on rollcall No. 438, “yea” on rollcall No. 439, “yea” on rollcall No. 440, “yea” on rollcall No. 441, and “yea” on rollcall No. 442.

**FURTHER MESSAGE FROM THE SENATE**

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3455. An act to provide for the extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

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

S. 203. An act to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

S. 241. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

S. 285. An act to reauthorize the Children’s Hospitals Graduate Medical Education Program.

S. 442. An act to provide for the Secretary of Homeland Security to be included in the line of Presidential succession.

**DOMINIONIC REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT**

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 386, I call up the bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, and ask for its immediate consideration.

The Clerk read the title of the bill. The text of H.R. 3045 is as follows:

**Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Free Trade Agreement Act of 1979, and the Implementing Agreement Act, are hereby repealed; and that this Act may be cited as the ‘‘Dominican Republic-Central America-United States Free Trade Agreement Implementation Act’’.”

**SECTION I. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ‘‘Dominican Republic-Central America-United States Free Trade Agreement Implementation Act’’.

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

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**TITLE II—CUSTOMS PROVISIONS**

Sec. 201. Tariff modifications.

Sec. 202. Additional duties on certain agricultural goods.

Sec. 203. Rules of origin.

Sec. 204. Customs user fees.

Sec. 205. Retrospective application for certain liquidations and reliquidations of textile or apparel goods.
From the Agreement

Shell the purpose of the Act are—
(1) to negotiate and implement the Free Trade Agreement between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(a) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(1) the President may proclaim such actions, and

(b) other appropriate officers of the United States Government may issue such regulations,
as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover requirements of section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register."

(b) Initial regulations.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the Agreement enters into force. In the case of any implementing action that takes effect on a date that is not more than 1 year after the Agreement enters into force, initial regulations to carry out such action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—
(1) shall have any cause of action or defense under the Agreement by virtue of congressional approval thereof; or
(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

(c) Initial regulations.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the Agreement enters into force. In the case of any implementing action that takes effect on a date that is not more than 1 year after the Agreement enters into force, initial regulations to carry out such action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

(c) CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS. If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2185); and

(B) the Commission; and

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1).

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover requirements of section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.
set forth in paragraphs (1) and (2) have been met has expired; and
(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) ESTABLISHMENT OF DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5 of the United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

SEC. 106. ARBITRATION OF CLAIMS.

The United States is authorized to resolve any dispute that the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section 11(b) of chapter 10 of the Agreement.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF CAPTA-DR STATUS.—During any period in which a country ceases to be a CAPTA-DR country, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect with respect to that country.

(d) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the United States, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

(1) PROCLAMATION AUTHORITY.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment,

(C) such additional duties, as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

(2) EFFECT ON GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate, the designation of each CAPTA-DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 on the date the Agreement enters into force with respect to that country.

(3) EFFECT ON CEREA STATUS.—

(A) IN GENERAL.—Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act, the President shall terminate the designation of each CAPTA-DR country as a beneficiary country for purposes of that Act on the date the Agreement enters into force with respect to that country.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the President shall consider the beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act, for purposes of subsection (b), the provisions of the Agreement of 1930 (19 U.S.C. 1677(G)(ii)(I)/(III)) and 1677(7)(H));

(ii) the duty-free treatment provided under paragraph (b) of section 201, and the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and


(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may claim to be a CAFTA-DR country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties, as the President determines to be necessary or appropriate to maintain the general level of protection against the United States share of the expenses of panels established under chapter 20 of the Agreement.

(3) EFFECT ON CBERA STATUS.—

(A) IN GENERAL.—The provisions of标题1924 (19 U.S.C. 2251 et seq.) shall be construed as if the provisions of this Act were made.

(B) EXCEPTION.—Notwithstanding section 201, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CAFTA-DR country imported into the United States in a calendar year if the Secretary determines that the total volume of that safeguard good that is imported into the United States in that calendar year exceeds 150 percent of the volume that was set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a safeguard good under this subsection shall be the excess of a good classified under subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35, or 2008.11.60 of the HTS—

(i) in years 1 through 5, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 11 through 14, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in the case of any other safeguard good.

(1) in years 1 through 14, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 15 through 17, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 18 and 19, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

(a) GENERAL PROVISIONS.—

(1) APPLICATION OF SUBSECTION.—This subsection applies to additional duties assessed under subsection (b).

(2) APPLICABLE NTR (MFN) RATE OF DUTY.—For purposes of subsection (b), the term “applied NTR (MFN) rate of duty” means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as that good; or

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as that good.

(3) SCHEDULE RATE OF DUTY.—For purposes of subsection (b), the term “schedule rate of duty” means, with respect to a safeguard good, a rate of duty under section 201, and subject to subsection (a), the President proclaims under subsection (a) or (b) of section 201, the rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement.

(4) SAFEGUARD GOOD.—In this section, the term “safeguard good” means a good—

(A) that is included in the Schedule of the United States to Annex 3.15 of the Agreement;

(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(5) EXCEPTIONS.—No additional duty shall be assessed on goods (a) that are designated (b) if, at the time of entry, the good is subject to import relief under—

(4) NTR (MFN) rate of duty over the schedule rate of duty; and

(5) NTR (MFN) rate of duty over the schedule rate of duty; and

(6) 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

SEC. 203. RULES OF ORIGIN.

(a) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in

(4) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.
the territory of the country in which the good is produced (whether the United States or another CAFTA–DR country).

(b) ORIGINATING GOODS.—For purposes of this Act and purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good:

(1) the good is a good wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries;

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA–DR countries, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA–DR countries, from materials described in paragraph (1) or (2).

(c) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of the good is produced (whether the United States or another CAFTA–DR country as the good described in clause (i) or (ii) for automotive goods that are exported to the territory of one or more of the CAFTA–DR countries.

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA–DR countries.

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA–DR countries.

(i) A UTOMOTIVE GOOD .—The term "automotive good" means the regional value-content of the automotive good, expressed as a percentage.

(ii) RVC.—The term "RVC" means the regional value-content of the automotive good, expressed as a percentage.

(iii) AV.—The term "AV" means the adjusted value of the good.

(iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) BUILD-UP METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

\[
RVC = \frac{AV - VNM}{AV} \times 100
\]

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term "RVC" means the regional value-content of the automotive good, expressed as a percentage.

(ii) AV.—The term "AV" means the adjusted value of the good.

(iii) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement may be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

\[
RVC = \frac{NC - VNM}{NC} \times 100
\]

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term "RVC" means the regional value-content of the automotive good, expressed as a percentage.

(ii) AV.—The term "AV" means the adjusted value of the good.

(iii) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good.

(iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good.

(v) NC.—The term "NC" means the net cost of the automotive good, as determined in accordance with paragraph (1) or (2).

(5) ORIGINATING GOOD.—For purposes of implementing the preferential tariff treatment provided for in any of subheadings 8407.31 through 8407.34, 8408.20, heading 8409, or in any of subsections 8701 through 8708.

(ii) RVC.—The term "RVC" means the regional value-content of the automotive good, as expressed as a percentage.

(iii) NC.—The term "NC" means the net cost of the automotive good.

(iv) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(C) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under paragraph (A) for automotive goods that are a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in paragraph (A), over the producer's fiscal year:

(i) with respect to all other goods vehicles in any of the categories described in clause (ii) of this section;

(ii) with respect to all motors vehicles in any such category that are exported to the territory of one or more of the CAFTA–DR countries.

(D) CATEGORY.—A category is described in this clause if it—

(i) is the same model line of motor vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated;

(ii) is the same class of motor vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated;

(iii) is the same model line of motor vehicles produced in the territory of a CAFTA–DR country as the good described in clause (i) for which regional value-content is being calculated;

(iv) is the same model line of motor vehicles produced in the territory of a CAFTA–DR country as the good described in clause (i) for which regional value-content is being calculated;

(6) AV.—The term "AV" means the adjusted value of the good.

II) RVC.—The term "RVC" means the regional value-content of the automotive good, as determined in accordance with paragraph (1) for which regional value-content is being calculated.

III) VNM.—The term "VNM" means the value of nonoriginating materials that are acquired and used by the producer in the production of the good.

DOING BUSINESS WITH THE UNITED STATES.—

(1) IN GENERAL.—For purposes of determining the regional value-content under paragraph (A) for automotive goods that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in paragraph (A), over the producer's fiscal year:

(i) with respect to all motor vehicles in any of the categories described in clause (ii) of this section;

(ii) with respect to all motor vehicles in any such category that are exported to the territory of one or more of the CAFTA–DR countries.

(E) CALCULATING NET COST .—The importer, exporter, or producer may—

(i) calculate the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the remaining net cost of those goods to the automotive good;

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good;

or

(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of all such costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(2) NO VALUE OF MATERIALS.—

(i) IN GENERAL.—For the purpose of calculating the value of a material that is imported by the producer of the good, the adjusted value of the material.

(ii) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding provisions of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreement Act, as of March 31, in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation.

or

(iii) in the case of a material that is self-produced, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade.

(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA–DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA–DR countries, other than duties or taxes that are waived, refunded, refunded, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the goods, less the value of renewable scrap or byproducts.

(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory.
of one or more of the CAFTA–DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA–DR countries, other than duties or taxes that are waived, refunded, refunded, or otherwise recoverable, including credit against duty or tax paid on such materials.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewables and byproducts.

(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of one or more of the CAFTA–DR countries.

(e) Accumulation.—

(1) Originating materials used in production of goods of another country.—Originating materials from the territory of one or more of the CAFTA–DR countries that are used in the production of a good in the territory of another CAFTA–DR country shall be considered to originate in the territory of that other country.

(2) Multiple procedures.—A good that is produced in the territory of one or more of the CAFTA–DR countries by 1 or more producers is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(f) De Minimis Amounts of Nonoriginating Materials.—

(1) In general.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

(A) the value of all nonoriginating materials that—

(i) are used in the production of the good, and

(ii) do not undergo the applicable change in tariff classification (set out in Annex 4.1 of the Agreement),

does not exceed 10 percent of the adjusted value of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

(2) Exceptions.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1006.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 5 that is used in the production of a good provided for in chapter 5.

(C) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

(D) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1001 or 2101.

(E) A nonoriginating material provided for in heading 1001 that is used in the production of a good provided for in heading 1102 or 1103 or 1201.

(F) A nonoriginating material provided for in heading 1205 that is used in the production of a good provided for in heading 1701 through 1703.

(G) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(H) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, the quantities of the nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than that which is being determined under this section.

(3) Textile or apparel goods.—

(A) Domestic yarn or fabric provided for in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or


(B) Certain textile or apparel goods.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good may be considered to be an originating good only if such yarns are wholly produced or used in the territory of the CAFTA–DR country.

(C) Yarn, fabric, or fiber.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term ‘component of the good that determines the tariff classification of the good’ means all of the fibers in the good.

(g) Fungible Goods and Materials.—

(1) In general.—

(A) Claiming Preferential Tariff Treatment.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) Inventory Management Method.—In this subsection, the term ‘inventory management method’ means—

(i) averaging;

(ii) ‘last-in, first-out’;

(iii) ‘first-in, first-out’; or

(iv) any other method.

(I) recognized in the generally accepted accounting principles of the CAFTA–DR country in which the production is performed; or

(II) otherwise accepted by that country.

(2) Election of Inventory Method.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

(h) Accessories, Spare Parts, or Tools.—

(1) In general.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good’s standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement.

(2) Conditions.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are classified on import separately from the good, regardless of whether they appear specified or separately identified in the invoice for the good; and

(B) the quantities and values of the accessories, spare parts, or tools are customary for the good.

(3) Regional Value-Content.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(i) Packaging Materials and Containers for Retail Sale.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) Packaging Materials and Containers for Export.—Packaging materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) Indirect Materials.—An indirect material shall be treated as an originating material if the good to which it is attached or incorporated is produced.

(l) Transit and Transportation.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territories of the CAFTA–DR countries, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good from the territory of a CAFTA–DR country; or

(2) does not remain under the control of customs authorities in the territory of a country other than a CAFTA–DR country.

(m) Goods Classifiable as Goods Put Up in Sets.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods under section 4.1.

(1) each of the goods in the set is an originating good; or

(2) the total value of the nonoriginating goods in the set does not exceed 10 percent of the adjusted value of the set; or
(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

(n) DEFINITIONS.—In this section:

(1) NONORIGINATING.—The term "adjusted value" means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to normal shipment of the merchandise from the country of exportation to the place of importation.

(2) CAFTA–DR COUNTRY.—The term "CAFTA–DR country" means—

(A) the United States; and

(B) Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua, for such time as the Agreement is in force between the United States and that country.

(3) CLASS OF MOTOR VEHICLES.—The term "class of motor vehicles" means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subparagraph (A) of paragraph (10) of section 1006 of the Uruguay Round Agreements Act, 1994, as amended, or a person of a CAFTA–DR country and not processed in the territory of a country other than a CAFTA–DR country.

(B) Waste and scrap derived from—

(i) manufacturing or processing operations in the territory of one or more of the CAFTA–DR countries; or

(ii) goods collected in the territory of one or more of the CAFTA–DR countries, if such goods are fit only for the recovery of raw materials.

(C) Goods produced on board factory ships flying the flag of that country; and

(D) Goods produced by a producer of a good and used in the production, testing, or inspecting the good; and

(E) Goods produced by a producer of a good and consumed in the production of goods.

(F) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of one or more of the CAFTA–DR countries by vessels registered or recorded under the flag of that country and flying the flag of that country;

(G) Goods produced on board factory ships from the goods referred to in subparagraph (F) that are registered or recorded with that CAFTA–DR country and flying the flag of that country;

(H) Goods taken by a CAFTA–DR country or a person of a CAFTA–DR country from the seabed or subsoil outside territorial waters, if a CAFTA–DR country has rights to exploit such seabed or subsoil;

(I) Goods taken from outer space, if the goods are obtained by a CAFTA–DR country or a person of a CAFTA–DR country and not processed in the territory of a country other than a CAFTA–DR country;

(J) Waste and scrap derived from—

(i) manufacturing or processing operations in the territory of one or more of the CAFTA–DR countries; or

(ii) goods collected in the territory of one or more of the CAFTA–DR countries, if such goods are fit only for the recovery of raw materials.

(K) Goods produced in the territory of one or more of the CAFTA–DR countries from goods used in the territory of a CAFTA–DR country in the production of remanufactured goods; and

(L) Goods produced in the territory of one or more of the CAFTA–DR countries exclusively from—

(i) goods referred to in any of subparagraphs (A) through (J), or

(ii) the derivatives of goods referred to in clause (i), at any stage of production.

(7) IDENTICAL GOODS.—The term "identical goods" means identical goods as defined in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act;

(8) INDIRECT MATERIAL.—The term "indirect material" means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(E) glasses, gloves, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(9) MATERIAL.—The term "material" means a good that is used in the production of another good, including a part or an ingredient.

(10) MATERIAL THAT IS SELF-PRODUCED.—The term "material that is self-produced" means a group of motor vehicles having the same platform or model name.

(11) MODEL LINE.—The term "model line" means a group of motor vehicles having the same platform or model name.

(12) NET COST.—The term "net cost" means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

(13) NONALLOWABLE INTEREST COSTS.—The term "nonallowable interest costs" means interest costs incurred by a producer that exceed 700 basis points above the applicable interest rate for comparable maturities of the CAFTA–DR country in which the producer is located.

(14) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term "nonoriginating good" and "nonoriginating material" mean a good or material, as the case may be, that does not qualify as originating under this section.

(15) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—The term "packing materials and containers for shipment" means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which a good is packaged for retail sale.

(16) PREFERENTIAL TARIFF TREATMENT.—The term "preferential tariff treatment" means the customs duty rate, and the treatment under article 3.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(17) PRODUCER.—The term "producer" means a person who owns or controls goods in the production of a good in the territory of a CAFTA–DR country.

(18) PRODUCTION.—The term "production" means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(19) REASONABLY ALLOCATE.—The term "reasonably allocate" means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(20) RECOVERED GOODS.—The term "recovered goods" means materials in the form of individual parts that are the result of—

(A) the disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(21) REMANUFACTURED GOOD.—The term "remanufactured good" means a good that is classified under chapter 84, or any of headings 9026, 9031, or 9032, other than a good classified under heading 8101 or 8516, and that—

(A) is entirely or partially composed of recovered goods; and

(B) has a similar life expectancy and enjoys a factory warranty similar to such a new good.

(22) TOTAL COST.—The term "total cost" means all product costs, period costs, and other costs for a good incurred in the territory of one or more of the CAFTA–DR countries.

(23) USED.—The term "used" means used or consumed in the production of goods.

(p) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 4.1 of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25(4) of the Agreement.

(q) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 194,
the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim in a timely manner before the end of the 1-year period beginning on the date of the enactment of this Act, to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE CAFTA–DR COUNTRIES.—(A) IN GENERAL.—Notwithstanding paragraph 3(A), the list of fabrics, yarns, and fibers set out in Annex 3.25 of the Agreement may be modified as provided for in this paragraph.

(B) DEFINITIONS.—In this paragraph:

(i) the term “interested entity” means the government of a CAFTA–DR country other than that in which the request is submitted, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good;

(ii) the references to “day” and “days” exclude Saturdays, Sundays, and legal holidays;

(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries, and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity;

(ii) After receiving a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the CAFTA–DR countries; or

(II) any interested entity objects to the request;

(iii) The President may, within the time periods specified in clause (iv), proclaim that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity;

(iv) After a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the CAFTA–DR countries; or

(II) any interested entity objects to the request;

(v) The President may issue a proclamation under clause (ii) are—

(I) not later than 30 days after the date on which the request is submitted under clause (i); or

(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that the President does not have sufficient information to make a determination under clause (i).

(vii) Notwithstanding section 503(a)(2), a proclamation made under clause (i) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

(viii) Not later than 6 months after proclamation under clause (i) that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in a restricted quantity, the President may determine that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries.

(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under paragraph (4)(B)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3.25 of the Agreement beginning—

(i) 45 days after the date on which the request was submitted; or

(ii) 60 days after the date on which the request is submitted, if the President makes the determination under subparagraph (C)(iv)(II).

(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement beginning—

(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (4)(B)(ii) or subparagraph (C)(iii) or (D); or

(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).

(ii) An interested entity may submit a request under clause (i)(I) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.

(iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is not available in commercial quantities in a timely manner in the CAFTA–DR countries.

(iv) A proclamation declared under clause (ii) shall take effect on the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.

(F) PROCEDURES.—The President shall establish procedures—

(i) governing the submission of a request under subparagraphs (C) and (E); and

(ii) providing for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C)(ii) or (VI) of subparagraph (C)(v).

SEC. 204. CUSTOMS USER FEES.

Section 1303(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 2042(2)) is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by adding after paragraph (8) the following new paragraph:

"(9) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, promptly and voluntarily makes a corrected declaration and pays any duties owing.”; and

(2) by adding to the end the following new subsection:

"(b) FALSE CERTIFICATIONS OF ORIGIN UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a CAFTA–DR certification of origin (as defined in section 508(g)(1)(B) of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any such certification that is not an honest declaration of facts as to the country of origin shall be treated as a violation of subsection (a) and shall subject the person certifying the origin to—

(A) a civil penalty not to exceed $10,000 for each violation of this subsection; and

(B) a civil penalty not to exceed $5,000 for each violation of this subsection.

"(2) PROCEDURE.—In cases of violations of this subsection, the Bureau of Customs and Border Protection shall establish by regulation procedures for the enforcement of this subsection, including the imposition of any civil penalty described in paragraph (1), and the procedures and penalties of this subsection that apply to a violation of this subsection also apply to a violation of subsection (a).
TRADE AGREEMENT.—If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds that the certification was issued on the basis of incorrect information, the exporter, importer, or producer—

(a) by inserting ‘‘or (g)’’ after ‘‘(f)’’; and

(b) by striking ‘‘subsection (c)’’ and inserting ‘‘section 202 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act’’.

SEC. 208. RECORDKEEPING REQUIREMENTS.

(1) In the Under the Dominican Republic-Central America-United States Free Trade Agreement—If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer, exporter, or producer of false or incomplete supporting documents, the Secretary may order or require the importer, exporter, or producer to maintain records and supporting documents related to the subject of the verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to determine, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods; or

(3) any proclamation issued under section 203.
(1) CAPTA–DR ARTICLE.—The term ”CAPTA–DR article” means an article that qualifies as an originating good under section 203(b).

(2) CAPTA–DR TEXTILE OR APPAREL ARTICLE.—The term ”CAPTA–DR textile or apparel article” means a textile or apparel good (as defined in section 3(b)(3)) that is a CAPTA–DR textile or apparel good.

(3) DE MINIMIS SUPPLYING COUNTRY.—
   (A) Subject to subparagraph (B), the term ”de minimis supplying country” means a CAPTA–DR country whose share of imports of the relevant CAPTA–DR article into the United States does not exceed 3 percent of the aggregate volume of imports of the relevant CAPTA–DR article during the 12-month period for which data are available that precedes the filing of the petition under section 311(a).
   (B) A CAPTA–DR country shall not be considered to be a de minimis supplying country if the aggregate share of imports of the relevant CAPTA–DR article into the United States of all CAPTA–DR countries that satisfy the conditions of subparagraph (A) exceeds 9 percent of the aggregate volume of imports of the relevant CAPTA–DR article during the 12-month period.

(4) RELEVANT CAPTA–DR ARTICLE.—The term ”relevant CAPTA–DR article” means the CAPTA–DR article with respect to which a petition has been filed under section 311(a).

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.
   (a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting the obligations of the United States under the Agreement may be filed with the United States Trade Representative by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The United States Trade Representative shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—
   (1) Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a CAFTA–DR article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a threat of material injury to the domestic industry producing an article that is like, or directly competitive with, the imported article.

   (c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):—
      (1) Paragraphs (1)(B) and (3) of subsection (b)
      (2) Subsection (c).
      (3) Subsection (i).

   (d) ARTICLES EXEMPT FROM INVESTIGATION.—Articles exempt from investigation under this section with respect to any CAFTA–DR article if, after the date that the Agreement enters into force, import relief has been afforded under paragraph (b) of this section are:
      (1) Paragraphs 203(b)(1) and (2) of the HTS that are in effect as of the date on which the Agreement entered into force.
      (2) Any articles on the above list that are described under paragraphs 203(b)(1) and (2) of the HTS as of the date on which the Agreement entered into force.
      (3) Any other article that is placed on the above list under section 313(b)(1).

SEC. 312. COMMISSION ACTION ON PETITION.
   (a) DETERMINATION.—Not later than 120 days after the date on which an petition is initiated under this section with respect to any CAFTA–DR article if, after the date that the Agreement enters into force, import relief has been afforded under paragraph (b) of this section, the Commissioner shall determine whether the import relief under the Agreement is de minimis supplying country.

   (b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1339(d)(1), (2), and (3)) shall be applied by analogy to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

   (c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination, the President shall provide for the progressive liberalization of duty rates under section 203(b). (d) IN GENERAL.—The President shall, upon the filing of a petition under subsection (a), the Commission, unless subsection (c) applies, shall conduct an investigation to determine whether imports of the relevant CAFTA–DR article are a threat to the domestic industry to be necessary to remedy or prevent serious injury and otherwise to be heard. The Commission shall take the following actions as provided for under paragraph (1) of section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

   (d) REPORT TO PRESIDENT.—Not later than the date on which the President receives the report of the Commission, the President shall provide for the progressive liberalization of duty rates under section 203(b). If the President determines that—
      (1) the import relief continues to be necessary to remedy or prevent serious injury and otherwise to be necessary to remedy or prevent serious injury and otherwise to be heard.
      (2) the import relief under section 203(b) is to terminate, the Commission shall submit to the President a report on its investigation and recommendations for the termination of the import relief.

   (e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public the report and shall provide for the progressive liberalization of duty rates under section 203(b) if the President determines that—
      (1) the import relief continues to be necessary to remedy or prevent serious injury and otherwise to be necessary to remedy or prevent serious injury and otherwise to be heard.
      (2) the import relief under section 203(b) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that this industry is making a positive adjustment to import competition.

   (B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date on which the Agreement entered into force, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—
      (i) the import relief continues to be necessary to remedy or prevent serious injury and otherwise to be necessary to remedy or prevent serious injury and otherwise to be heard.
      (ii) there is evidence that the industry is making a positive adjustment to import competition.

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 3.3 of the Agreement would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the applicable rate of duty for that article set out in the Schedule of the United States to Annex 3.3 of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in effect at or before the date set out in the Schedule of the United States to Annex 3.3 of the Agreement for the elimination of the tariff.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section—

(1) any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

(2) a CFATA-DR article of a CFATA-DR country that is a de minimis supplying country with respect to that article.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—If an article for which relief is provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force, that relief shall not be treated as action taken under chapter 1 of title II of the Trade Act of 1974.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2241), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of the Trade Act of 1974.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2242(a)(8)) is amended in the first sentence—

(1) by striking “and”; and

(2) by inserting before the period at the end “, and” after “import relief provided under that section, subject to the limitation set forth in subsection (a), the President determines that—

(1) the import relief continues to be necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry for substantial cause of serious injury or threat thereof.

(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under this chapter by reason of section 330(d) of the Trade Act of 1930 (19 U.S.C. 2471(a)(1)), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article of each CFATA-DR country that quality as originating goods under section 233(b) are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF CFATA-DR COUNTRIES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Tariff Act of 1974, the President may exclude from the action goods of a CFATA-DR country with respect to which the Commission has made a negative finding under subsection (a).
amended by adding at the end the following new subparagraph:

"(F) The term 'former beneficiary country' means a country that ceases to be designated as a beneficiary country under this title because the country has become a party to a free trade agreement with the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION AS BENEFICIARY COUNTRIES.—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by striking from the list of countries eligible for designation as beneficiary countries—

(1) ‘‘Costa Rica’’, effective on the date the President terminates the designation of Costa Rica as a beneficiary country pursuant to section 201(a)(3);

(2) ‘‘Dominican Republic’’, effective on the date the President terminates the designation of the Dominican Republic as a beneficiary country pursuant to section 201(a)(3);

(3) ‘‘El Salvador’’, effective on the date the President terminates the designation of El Salvador as a beneficiary country pursuant to section 201(a)(3);

(4) ‘‘Guatemala’’, effective on the date the President terminates the designation of Guatemala as a beneficiary country pursuant to section 201(a)(3);

(5) ‘‘Honduras’’, effective on the date the President terminates the designation of Honduras as a beneficiary country pursuant to section 201(a)(3); and

(6) ‘‘Nicaragua’’, effective on the date the President terminates the designation of Nicaragua as a beneficiary country pursuant to section 201(a)(3).

(c) MATERIALS OF, OR PROCESSING IN, FORMER BENEFICIARY COUNTRIES.—Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is amended by striking ‘‘the Commonwealth of Puerto Rico and the United States Virgin Islands’’ and inserting ‘‘the Commonwealth of Puerto Rico, the United States Virgin Islands, and any former beneficiary country’’.

(d) DEFINITIONS AND SPECIAL RULES.—Section 213(b)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)) is amended by adding at the end the following new subparagraphs:

(G) FORMER CBTPA BENEFICIARY COUNTRY.—The term ‘‘former CBTPA beneficiary country’’ means a country that ceases to be designated as a CBTPA beneficiary country under this title because the country has become a party to a free trade agreement with the United States.

(H) ARTICLES THAT UNDERGO PRODUCTION IN A CBTPA BENEFICIARY COUNTRY AND A FORMER CBTPA BENEFICIARY COUNTRY.—For purposes of determining the eligibility of an article for preferential treatment under paragraph (2) or (3), references in either such paragraph, and in subparagraph (C) of this paragraph to—

(i) a ‘‘CBTPA beneficiary country’’ shall be considered to include any former CBTPA beneficiary country;

(ii) ‘‘CBTPA beneficiary countries’’ shall be considered to include former CBTPA beneficiary countries, if the article, or a good used in the production of the article, undergoes production in a CBTPA beneficiary country.

(ii) An article that is eligible for preferential treatment under clauses (i) and (ii), an article that is a good of a former CBTPA beneficiary country for purposes of section 304 of the Tariff Act of 1930 (19 U.S.C. 304) or section 529(b)(2) of the Trade Act of 1974 (19 U.S.C. 1862(b)(2)), or an article that is a good of a former CBTPA beneficiary country for purposes of section 392 of the Tariff Act of 1930 (19 U.S.C. 392), as the case may be, shall not be eligible for preferential treatment under paragraph (2) or (3), unless—

(i) it is an article that is a good of the Dominican Republic under either such section 304 or 392;

(ii) the article, or a good used in the production of the article, undergoes production in Haiti;''

SEC. 403. PERIODIC REPORTS AND MEETINGS ON LABOR OBLIGATIONS AND LABOR CAPACITY-BUILDING PROVISIONS.

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than the end of the 2-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter during the 14-year period, the President shall report to the Congress on the progress made by the CAFTA-DR countries in—

(A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and

(B) implementing the White Paper.

(2) WHITE PAPER.—In this section, the term ‘‘White Paper’’ means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity.

(b) CONTENTS OF REPORTS.—Each report under paragraph (1) shall include the following:

(A) A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA-DR country.

(B) Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper.

(c) IMPLEMENTATION OF WHITE PAPER.—(1) The President shall submit to Congress a strategy for the implementation of the recommendations contained in the White Paper, to be developed by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement; and

(2) Within 180 days of the date of the submission of the strategy required under paragraph (1), the Labor Cooperation and Capacity Building Mechanism shall submit a report to Congress, including an itemized list and description of the specific actions to be taken to fully implement the recommendations contained in the White Paper.

(d) REPORT TO CONGRESS.—The President shall submit to Congress a report containing a description of the efforts by the United States and the CAFTA-DR countries to implement the recommendations contained in the White Paper; and

(e) LOCAL IMPLEMENTATION.—The President shall establish such mechanisms and procedures as are necessary to ensure the implementation in the CAFTA-DR countries of the recommendations contained in the White Paper.

(f) OTHER REPORTS.—The President shall submit to Congress a report each year containing a description of the efforts made by the United States and the CAFTA-DR countries to implement the recommendations contained in the White Paper.

(g) RECOMMENDATIONS TO CONGRESS.—The President shall submit to Congress recommendations regarding labor affairs, including a description of specific efforts made by the United States and the CAFTA-DR countries to implement the recommendations contained in the White Paper.

(h) BUDGETARY RECOMMENDATIONS.—The President shall submit to Congress a report containing a description of the efforts made by the United States and the CAFTA-DR countries to implement the recommendations contained in the White Paper.

(i) Summaries of meetings of the following:

(1) PERIODIC MEETINGS OF THE SECRETARY OF LABOR AND THE LABOR MINISTERS OF THE CAFTA-DR COUNTRIES.—The Secretary of Labor, in cooperation with the labor ministers of the CAFTA-DR countries, shall meet periodically with the labor ministers of the CAFTA-DR countries to discuss—

(A) the operation of the labor provisions of the Agreement;

(B) progress on the commitments made by the CAFTA-DR countries to implement the recommendations contained in the White Paper; and

(C) the work of the International Labor Organization in the CAFTA-DR countries, and any other cooperative efforts, to afford to workers internationally-recognized worker rights; and

(D) such other matters as the Secretary of Labor and the labor ministers consider appropriate.

(2) INCLUSION IN BIENNIAL REPORTS.—The President shall include in each report under section 402(a) recommendations or summaries of the meetings held pursuant to paragraph (1).

The Speaker pro tempore (Mr. Bass). Pursuant to House Resolution 386, the gentleman from California (Mr. Thomas) and the gentleman from New York (Mr. Angel) each will control 1 hour.

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

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

Mr. Speaker, for those individuals within our eyesight and earshot, there may be some people wondering about the debate that was begun under the previous jurisdiction, and that if it, in fact, carried over into the general debate, you will be quite perplexed.

The statement was repeated several times that we are doing this in the dead of the night. My friends, it is 5:30 in California. People are just getting home from work. Would we not rather debate this during prime time when there are people home and who can watch it?

Words such as ‘‘shameful,’’ ‘‘disrespectful,’’ ‘‘arrogant’’; accusations about freely-elected people in countries south of our border; someone who is not familiar with the way this place operates would be quite amazed at what has been said. Let me assure you, those rhetoric that we need only turn to the United States Constitution, Article I, section 6. Therein is contained what is often called the Speech and Debate Clause. The Speech and Debate Clause in the Constitution says, ‘‘And for any speech or debate in either House they, the Senators and Representatives, shall not be questioned in any other place.’’

In other words, truth, veracity, facts do not apply here. If you choose not to use them. If you choose to misrepresent what the media is allowed to do that on the floor of the House. If you wish to confuse, if you wish to say black is white or white is black, you can.

But I do think that you ought to at least give minimum respect for people who are in the audience to have an opportunity to share the blessings of democracy.

In the 1980s we were all concerned, and speeches were made on the floor of this House about the impending loss of Central America to totalitarian governments, and, frankly, sometimes it was to the right, and sometimes it was to the left.
Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the gentleman's district is in New York, and television is very expensive there, but it may surprise the gentleman to know that 6:30 on the east coast is called prime time, and you have to pay for it. We are in prime time.

Just let me say that you must be very proud, as you just indicated, to advocate for your side to vote "no" on democracy, "no" to jobs in their own country, "yes" to continued poverty, and "yes" to a threat to fragile democracies, because that is what this vote is. And it really is a sad night for your once proud, aggressive party, which said a lot of words and no action for people in need.

Mr. Speaker, I yield the remainder of my time to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Trade of the Committee on Ways and Means, and I ask unanimous consent that I control the remainder of the time.

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

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

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

Mr. Speaker, I would point out that probably I do not want to associate myself with either of the opening remarks. This is not political to me. Mr. Speaker, we can sit here all day and argue about what the thousands of pages of CAFTA really mean.

But the meaning of nearly every provision is debatable. That is the problem with this agreement. If it becomes law, the administration, the American courts, even the United States Constitution will have no effect on the final interpretation of this agreement. That will be left to the CAFTA tribunal, two Central American judges, always pitted against one judge from the United States.

Our Bill of Rights will not apply to these courts, neither will any sunshine laws, and there will never be a right of appeal. That is a direct insult to the sovereignty of the United States. CAFTA should not be approved on this point alone.

But let us go on and look at what is at stake in some of these debates, very briefly. CAFTA undermines the ability of the State medical and dental boards and health planning agencies to set public health standards for licensing of
proessions and institutions. I am sure someone will disagree with me about that, and we will decide it in a tribunal.

CAFTA overturns all of our “buy American” laws that encourage local jobs and suppliers. CAFTA could legally send local governments to outsource jobs, not just to Central American countries, but to India and to Pakistan and to Malaysia, or to any country that wants to set up phone banks.

CAFTA gives foreign business greater legal rights in America than our own businesses. CAFTA could overturn our immigration laws, could overturn our immigration laws by allowing CAFTA tribunals to decide whether those laws fairly or unfairly restrict another country’s ability to export cheap contract labor into America.

CAFTA countries today can ship chicken to my State of Georgia duty free, while charging up to 160 percent for the chicken my farmers try to ship in return. That is not fair trade.

Instead of fixing this now, we try to solve it by allowing CAFTA to drag out this unfair trade policy for over 18 years, during which my chicken farmers will continue to lose their foreign competitors.

CAFTA takes away the few current protections available to the American textile workers. There are gaping loopholes in every so-called protection for the American workers and farmers. Mr. Speaker, I just used the words “could” and “can” a lot in my comments.

The other side will argue, well, it is not certain if CAFTA will do all of this; it will be left up to three judges. I urge us to reconsider this and get a really good fair trade, not just fair, but free, trade agreement with Central America.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. Newson). A very respected Democratic member of the Ways and Means Committee.

Mr. JEFFERSON. Mr. Speaker, as a Democrat with a firm commitment to eliminate poverty and to improve the lives of workers both here and abroad, I believe it is important to discuss the policy implications contained in the proposed U.S.-FTA with the Dominican Republic and the countries of Central America.

In support of the CAFTA, I support the people of my port city. I have determined that the United States can best promote improvements both to working conditions and labor standards in those countries with the commitment and the capacity-building programs of this agreement.

I am concerned that our workers are not supported in their growing trade deficit. But CAFTA will have no negative impact here. Our trade deficit is driven by our own behavior as a Nation: massive consumption, low savings rates, and unwise borrow-and-spend economic policies of our own government, not CAFTA-like trade agreements.

In fact, an ITC study concludes CAFTA will reduce overall U.S. trade deficits by $756 million. And the CAFTA-NAFTA talk is a catchy play on words, but the comparison is really inappropriate.

Unlike the situation with Mexico prior to NAFTA, our market is already nearly completely open to Central American products. More than 80 percent of Central American products imported to the United States are already duty free. CAFTA will simply open their markets to our products leveling the playing field.

For years, Democrats and Republicans have promoted democracy in Central America and have spoken about the need to secure commitments from developing countries on core international labor standards, on labor enforcement, and have sought U.S. commitments to substantive and comprehensive labor-capacity building programs.

We have sought to ensure a role for international labor organizations in these efforts. With this unprecedented agreement, we have concluded and included all of these things. CAFTA promotes economic opportunity for the American workers and farmers.

Mr. RANGEL. Mr. Speaker, the gentleman from Maryland (Mr. Cardin) is the ranking member of the trade committee. And he probably never has voted for any trade agreement in this Congress.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. Cardin). A very respected liberal Democrat from Maryland.

Mr. CARDIN. Mr. Speaker, I would like to say that at every opportunity that I have, I have fought against CAFTA, I believe that CAFTA is a bad deal for America.

It is difficult to understand why the CAFTA countries are being held to a different standard and therefore a double standard.

The labor laws in the CAFTA countries are similar to those of Jordan and Morocco. For example, foreign nationals cannot lead or administer local labor unions in Morocco. This is the case in all of the CAFTA countries, but Nicaragua. The right to collective bargaining is not recognized in Morocco’s constitution, but it is in most of the CAFTA countries. And, finally, Morocco allows minors to work longer per week than all of the CAFTA countries.

If we can vote overwhelmingly for Morocco and Jordan with these labor provisions on the basis that we should engage them economically because they have made progress on liberalizing their economies and on improving their human rights pictures, then why can we not support this FTA with our neighbors in the popularly elected democracies with even better laws on the same grounds?

The CAFTA countries are being held to a more flexi-
bility. But those whose livelihoods depend on these issues believe that the new flexibilities CAFTA provides are critical to support an industry that provides some of the best-paying jobs in the region.

Are we to substitute our judgment for theirs?

CAFTA will also help these countries improve their investment climate through a more permanent relationship with the United States. If any other provisions of CAFTA, including increased transparency, curbs on corruption and provisions that promote the rule of law, which could in fact be the single most important driver to improve the lives of our neighbors in Central America and the Dominican Republic.

And there are the agreement’s labor provisions. Both the commitments made by each country in the labor chapter to enforce domestic laws and capacity-building programs built into the CAFTA, which each of the six governments recently relied on in undertaking an unprecedented commit-
mist to improve labor standards and enforcement in each of their countries in very concrete ways.

But despite all of these provisions and commitments, it is argued that the CAFTA’s labor provisions are a back door. And that CAFTA should not be supported because of the CAFTA countries’ histories of weak labor laws and suppressing worker rights.

The biggest labor issue of the CAFTA countries is in fact the inadequacy of enforcement mechanisms. Indeed, this is where many of the 20-plus labor problems the critics allege actually fall. They are issues of enforcement, not issues with the substantive existing labor laws; and that is where the CAFTA can do the most good.

In taking a close look at the other recent trade agreements that passed with overwhelming bipartisan support, it is difficult to understand why the CAFTA countries are being held to a different standard and therefore a double standard.

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The last point I want to make, Mr. Speaker, is that at our door stand our neighbors from Central America literally pleading with us to approve this CAFTA agreement. We are substituting our judgment for theirs, people who are elected by their own people as we are elected by ours.

Mr. Speaker, I think instead of turning a deaf ear to them, we ought to hear them. And we ought to support them. These are our neighbors and our friends. And we ought to support them. I urge adoption of this agreement.

Mr. RANGEL. Mr. Speaker, the gentleman from Maryland (Mr. Cardin) is the ranking member of the trade committee. He has worked hard on this, and he probably never has voted against any trade agreement in this
Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible or visible signs in violation of the rules of the House.

Mr. CARDIN. Mr. Speaker, I am going to first answer my friend, the gentleman from Louisiana (Mr. JEFFERSON), and he is my friend. I deeply respect his views as to why we would oppose this agreement when we supported the other agreements that he mentioned.

The gentleman from New York (Mr. RANGEL) is correct. In the 18-plus years that I’ve been honored to serve in this body, I have voted for all of the free trade agreements. This will be the first agreement that I will vote against.

This is the first agreement in which we actually move backwards on advancing international labor standards. Currently, with the Central American countries, we had the Caribbean Basin Initiative. The Caribbean Basin Initiative has worked. It has provided opportunity for the Central American countries. It has opened up markets for their products. They get preference.

But in order to get that preference, they must move towards international labor standards. That is the requirement.

We use the threat of withholding trade benefits if they do not adopt international labor standards. That is what we currently have with Central American countries, and it is working. We have made progress. CAFTA repeals those obligations. As the gentleman from Louisiana (Mr. JEFFERSON) said, what is in place is enforcing your own rules without any adequate enforcement.

We have a constitutional responsibility, Mr. Speaker, to approve or reject this free trade agreement. Trade opens up opportunity, not only for the United States but for the countries that we do business with.

I represent the Port of Baltimore. I am very much in favor of free trade. I would have liked to have had a CAFTA agreement that I could support.

The standard of living in the CAFTA nations is not as high as previous agreements that we have approved for Chile, Singapore, Morocco, or Australia. So for people living in poverty, trade if properly structured holds out the promise of a more meaningful economic opportunity and a better way of life in providing markets for our products.

But in order for that to occur, we must move the ball forward on protecting labor rights, workers’ rights. That is our responsibility. That should be our priority. This agreement moves backwards. We have a constitutional responsibility to make a judgment on this.

I do not know how we can support an agreement that moves us in the wrong direction. I do not expect miracles from our negotiators. But I certainly expect that they will adhere to priorities. I certainly expect that they will not give up something that the other countries have not asked us to give up. Your statement that you see us giving up those types of provisions in an agreement. Mr. Speaker, this could have been corrected. We made changes in the CAFTA agreement for textiles. We could have made changes for these labor provisions. We could have kept the Caribbean Basin Initiative protections; but, no, we did not do that. We could have done it. If we would have done it, we could have had strong bipartisan support for this legislation, as trade bills should be considered.

This CAFTA agreement is not good for the United States. It is not good for the Central American countries. I urge my colleagues to exercise their constitutional responsibility, as I am, and vote against this agreement.

Mr. SHAW. Mr. Speaker, I would remind the gentleman from Maryland (Mr. CARDIN) who has voted for previous trade agreements that this agreement has the strongest labor provision of any of the agreements that the gentleman has voted for, and that these countries, all of these countries adhere to international labor standards.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAÑ), a distinguished Democratic Member of the House of Representatives.

Mr. MORAÑ of Virginia. Mr. Speaker, I want to address my colleagues on this side of the aisle, the Democratic side of the aisle, because there are so many good people and true leaders among you, people who understand that we need to do more than we have done for Central America and Central Americans.

In a perfect political world, a Central American trade agreement should have passed on the Consent Calendar.

In a perfect world it would have been, because there is virtually no Member of Congress who does not have undocumented immigrants who have risked their life and limb to come to the United States so as to provide some future for themselves and their families. Many of our grandparents could empathize. Many of us who were born here must at least sympathize.

We all know the conditions in Central America. You would have to be blind or without conscience not to recognize the suffering that Central Americans are enduring. Thirty percent of Central America’s children are on the most basic foodstuffs. In most countries, more than half of the population are living in poverty. Certainly we feel some obligation, do we not, to do something about it?

I understand the politics, though, and I regret the politics. But from the standpoint of policy, certainly this could and should have been a much better agreement. We certainly addressed labor conditions in a more robust way, likewise, in language to preserve the environment. But on the whole this agreement does much more for Central America than we will have the opportunity to do in a long time to come; and that is why I support it.

Today we have a perfect storm of political confluence where the elected leaders of all of these nations are products of democratic elections, and their leaders are telling us they want this trade agreement to pass. The leader I have the most respect for, Oscar Arias, a Nobel Peace Prize winner, wrote an editorial, in the Post, and I trust we read it on both sides of the aisle. The thrust of his argument was, please give us an opportunity to export our products and let us begin to export our products and our services. And the only way that we can do that is to provide an incentive for all these multinational corporations, people with money to invest, to invest in Central America; ultimately invested in the human infrastructure, the roads and the bridges, the transportation and the communication systems, and the human infrastructure, the people, their skills and their training. It will be in their interest. It is not in their interest now.

Central Americans have paid the price for a system of government that continually exploited people who had no power; that was ruled largely by a handful of elite families, many of them descendants from the original European settlers who came there half a millenium ago. For 500 years they have been suffering. It is time to put an end to their desperation and isolation. They need and deserve a seat at the table of the global economy.

I am not going to try to justify or rationalize or excuse all of the problems with a globalized economy. Certainly people lose their jobs and people are hurt, but the global economy is a reality of today’s world. And if you are not at the table, you will suffer. We cannot maintain even the status quo in Central America any more than we can in our country. If CAFTA does not pass, poverty will get worse in Central America. Jobs will continue to be lost at an even faster pace to China and other countries who are more competitive, and capital will go elsewhere if we do not pass this trade agreement.

It is in so many ways deficient. I am not going to argue about that. But it is a fact that over the next 4 years $160 million is going to be invested in enforcement of labor laws, labor laws that are actually pretty good on the books of these nations. They are not enforced, but today this is the best opportunity to have them enforced. There will not be another opportunity to
have them enforced, and we have that commitment. And, likewise, the envi-
ronment will not be exploited to the de-
gree that it has been.

It is not a perfect agreement, but it is our responsibility, our duty, as far as I am con-
cerned, to pass this agreement now, to work with Central America, to work with the people that will invest in Central America to bring about a better world. A world one day of opportu-
nity for the best and brightest Cen-
tral American on their own country, so they don’t have to risk everything in pursuit of it outside their country of birth. I do understand that it is impor-
tant to be on the right side of the politi-
cal equation tonight, but it is even more important to be on the right side of history, and I think the right side of history will prove to will be a yes vote for CAFTA.

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

Mr. Speaker, if it is necessary I would like to quote what the bishops have said about this because I think the previous speaker gave an eloquent speech, but he said one thing: It could be better for the workers. I do not have any argument with that. And the bishop said, the panel urged that the agreement should con-
tribute to sustainable human develop-
ment, especially among the poorest and most vulnerable sectors; that the countries’ governments take as much time as possible to provide adequate information and foster broad debates about the contact and impact of the agreement, and that the moral mea-
sure of any trade agreement should be how it affects the lives and the dignity of poor families and vulnerable work-
ners whose voices should receive special attention in this discussion.

Mr. Speaker, the following six pages are organizations representing reli-
gious leaders in Central America and the Dominican Republic, representing peasants, representing farmers, rep-
resenting workers that all they are asking is please listen to us.

CENTRAL AMERICAN GROUPS OPPOSED TO CAFTA

Acción Ciudadana (Nicaragua)
Action Aid International (Guatemala)
Action Network of Citizens Against Free Trade (SINITECHAN)
Advising Committee of Rural Organiza-
tions of Honduras
Agrarian Platform of Guatemala
AJPB (AMBO—Environmental Alert)
Alexander Von Humboldt Center
Alliance for Life and Peace
Antonio Valdíveo Ecumenical Center (CAY)
Asociación de Mujeres de Occidente (Guatemala)
Asociación de Trabajadores del Campo (Nicaragua)
Asociación Hijos e Hijas del Maiz (Nicaragua)
Asociación de Servicios de Promoción Laboral (ASEPROL)
Asociación TECULCAN (Nicaragua)
Asociación de Cooperativas
Association for Development and Ecology (APDE)
Association for the Advancement of Social Services (AVANSCO)
Association for the Promotion and Devel-
opment of the Community (CEIBA)
Association of Agronomy Students of Guata-
temala (FEAG)
Association of Integral Development of El Salvador (ADIBA)
Association of Organizations of Central American Farmers for Cooperation and De-
velopment (ABOCODE)
Association of Professors of Secondary Education (APSE)
Association for Rural Communities for the Development of El Salvador (CRIPDES)
Association of Rural Organics Producers (ACAPRO)
Association of Skilled Women (ASESS)
Association of Women in Micro-Industries of Guatemala (AMUNTA)
Bishops’ Secretariat of Central America (SEDAC)
Bloque Popular—Colomimonagua (Honduras)
Bloque Popular (Honduras)
Bloque Popular Centroamericano
Buñete Jurídico Ambientalista “4 de Mayo” (Nicaragua)
Caribbean Theological Center of Bautista (CTC)
Catholic Church of Santa Rosa of Copan
Catholic Church of Trujillo
Center for Communication (CIDE)
Center for Legal Assistance for Indigenous Peoples
Center for Legal Attention in Human Rights (CALDH)
Center for Studies and Publication Prepa-
ration (CETEC)
Center for the Costa Rican Workers Move-
ment (CMT)
Center of Friends for Peace (CAP)
Center of Work Studies (CENTRA—El Salvador)
Central American Federation of Communal Organizations (FOC)
Central American Federal Democratic (El Salvador)
Center for Assistance Legal to Pueblos Indígenas (Nicaragua)
Center of Studies Internacionales (Nicaragua)
Centro de Estudios y Apoyo Laboral (El Salvador)
Centro Humboldt (Nicaragua)
Centro para la Defensa del Consumidor (El Salvador)
Citizen Network Against GMOs for Mexico and Central America
Citizen Council of Popular and Indigenous Organizations of Honduras (COPINH)
Civil Society Conference (Costa Rica)
Collectivo de Mujeres de Matagalpa (Nicaragua)
Comisión Intersindical (El Salvador)
Comité “Sí a la Vida no a la destrucción del Medio Ambiente” de León y Chichigalpa (Nicaragua)
Comité de Solidaridad “El Arenal” (Nicaragua)
Comité de Solidaridad Zapatista (Nicaragua)
Comité por la Paz, León (Nicaragua)
Committee for Work with Women Farmers (CMTMC)
Committee of Costa Rican Banana Unions (COSIBACR)
Committee of National Rural Organiza-
tions
Committee of NGOs (Non-Government Or-
ganizations) and Cooperatives (COMOCOGOP-
Guatemala)
Committee of the Salvadoran Workers Union (CSTS)
Committee of United Farmers (CUC)
Convergence of Movements of Peoples of America (COMPA)

Comunidades Ecleciales de Base (Nicar-
agua)
Confederation of Federations for Agricul-
tural Reform of El Salvador (CONFRA)
Confederation of Unification (CUS)
Confederation of Union Unity of Guate-
mala (CUSGU)
Confederation of Workers in Honduras (CTH)
Confederation of Workers of the Coun-
try-side (CTC)
Consumers Association of Masaya (ACODEMA)
Consumers International—Regional Office for Latin America and the Caribbean (Chile)
Cooperation of Movements of Peoples of America (COMPA)
Cooperativa Maquiladora Mujeres de Nueva Vida, Internacional (Nicaragua)
Cooperativa Multisectorial de Jalapa (Nicaragua)
Coordinadora de Organizaciones Indígenas y Campesinas (Guatemala)
Corporación Horticola (Costa Rica)
Costa Rica Association of Energy Pro-
ducers (ACOPE)
Costa Rica Social Insurance Fund and Allied Institutions (SIPOREMICA)
Costa Rican Confederation of Democratic Workers (CCTD)
Costa Rican Federation of Health Workers (FECPSALUD)
Costa Rican Lutheran Church (ILCO)
Costa Rican Union of Aids of Infirmary (SAE)
Council of Development Institutions (COINDE)
Council of Research for Central American Development (CIDEC)
Democratic Civic Center
Education Corporation for Costa Rican De-
velopment (CEDECO)
El Salvadoran Center for Appropriate Technology (CESTA)
Electric Industry Union of El Salvador (SIES)
Emasas Forum (Costa Rica)
Employees Union of the National Bank (SEBANA)
Employees Union of the University of Costa Rica (SINDUE)
Encuentro Popular (Costa Rica)
Federación Nacional de Sindicatos Textil, Vestuario, Fiel y Calzado (Nicaragua)
Federación Sindical de Trabajadores de los Servicios Públicos de El Salvador (FESTRASPS)
Federation of Cooperative Associations for Agricultural Production—FEDECOAPADES (El Salvador)
Federation of Cooperative Associations of Fishing Craftsmen of El Salvador
Federation of Farming Cooperatives of El Salvador (FEDECOAPADES)
Feminine Group for the Betterment of Families (GRUPEPROFAM)
Foro de la Mujer de El Salvador (Guatemala)
Foro de la Sociedad Civil (Nicaragua)
Foundation for the Cooperation and Com-
mercial Development of El Salvador (Cordes)
Foundation for the Education of Rural Leaders (FUNDACAMPO—El Salvador)
Fundación del Consumidor y del Usuario (Panama)
Fundación por los Derechos del Consumidor (Dominican Republic)
Friends of the Earth Costa Rica (CIECAO)
General Workers Confederation (CGT)
Global Conference of Guatemala
Green Tropics
Grupo de Solidaridad—El Arenal (Nicar-
agua)
Hemispheric Consumer Task Force on the FTAA (Chile)
Honduran Confederation of Cooperatives
Independent Federation of Salvadoran Micro Enterprice (FIMES—El Salvador)
Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE), who served this country and served it well, and he wears that lapel pin showing how proud he is to be a veteran, not a Republican, not a Democrat.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL).

Mr. Speaker, weeks ago I said that CAPTA was neither as good nor as bad as its respective proponents contend. At that time I also said whether I vote for or against CAPTA, I will inevitably disappoint many of my constituents. It is that controversial, Mr. Speaker, in my district.

I told President Bush that my late mom was a textile worker. She sewed pockets in overalls. And when textile workers, specifically female workers, plead with me to vote against CAPTA, I said to the President, it is my mama talking to me, and I cannot turn a deaf ear to those pleas.

Now these workers, Mr. Speaker, may how virtually nothing about CAPTA, but their perception is that it is bad for them, it threatens their jobs.

Now, many Members tonight who normally support trade agreements will for some reason, perhaps valid or otherwise, vote no tonight, and that is likely unfortunate because it goes away from their normal voting pattern. And I am confident that there is much good as well as much bad inevitable.

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Mr. COBLE. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL).

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jobs in farming, manufacturing and industry here at home.

When NAFTA was signed in 1993, there were four Presidents, Clinton, Bush, Carter, and Ford, present at the signing. We have a long history of bipartisan cooperation when it comes to the benefits of free trade. I hope to see that tradition continue.

American farmers currently face deep tariffs when exporting their goods to Central America, while 99 percent of the CAFTA agricultural products come into the United States duty free. This is a one-way street that needs to be redrawn into a two-way street, a two-way street of fair trade.

American farmers are struggling against an unfair international trading system, and they are at risk of failing. CAFTA levels that playing field. According to the American Farm Bureau, CAFTA would expand U.S. farm exports by $1.5 billion per year. CAFTA is also going to bring major gains to U.S. manufacturing. The National Association of Manufacturers recently reported that as a direct result of DR-CAFTA, U.S. manufacturers stand to gain approximately 12,000 new job opportunities for American workers.

CAFTA will also create tremendous job opportunities for the 13,000 American small businesses that are currently already exporting to those Central America countries. The economic opportunities created by DR-CAFTA will bring jobs and the possibility of a middle-class life to millions of Central Americans who are currently living in poverty. If we create economic opportunities in those countries, fewer will be forced to flee to the United States out of economic desperation.

The prosperity created by CAFTA will act as the foundation for more a stable and democratic future for Central America.

Mr. Speaker, trade has the power to change the world. Out of all the policy instruments that we have here in Washington, few have as much power to change lives, bring hope, and draw people together in a rising tide of prosperity as our ability to promote free and fair trade.

I am a supporter of DR-CAFTA because I think it is not only as a smart policy of the United States, but also it is a way to change our whole atmosphere here in Congress.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), who has been not only a supporter of trade agreements, but he has been an architect in designing trade agreements. Every major agreement he has voted for, fully or in part, has helped to make it better. That is when we used to work together on trade agreements.

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

Mr. LEVIN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for his kind words. What a privilege it has been to work with the gentleman.

This agreement as negotiated missed an historic opportunity. It fails a key growing challenge to globalization to expand trade so that its benefits are widely shared. Trade agreements must lift up, not level down. And unlike Chile or Singapore or Australia, CAFTA nations have immense poverty, among the worst income inequalities in the world, and a weak middle class. And to change that, workers must be able to lift themselves up the economic ladder. And to do so, they have to have their basic internationally recognized rights, including the right to bargain and to associate.

The fact of the matter is contrary to any of the rhetoric that comes forth here tonight or any of the disclaimers, a majority of workers do not have enforceable rights in their nation's legal structures.

Unlike CBI now in effect, CAFTA gives Central American governments a pass on worker rights. All they have to do is to enforce their own laws, no matter how bad they are presently, or no matter how poor the laws would be in the future. It is a standard used nowhere else: Enforce your own laws in this agreement is a double standard that would stimulate a race to the bottom.

That is bad, number one, for millions of Central American workers mired in poverty. That is bad, number two, it is bad for the nations desperately needing a growing middle class. Three, it is bad for our workers, who will not compete with nations who suppress their workers. And it is bad for our businesses who need middle class to buy their products.

I want to emphasize this, because the President has talked about security. Denial of worker rights and persistent poverty and inequalities are a source of unrest. Instead of democracy in the workplace is harmful to the spread of democracy. So not heeding our repeated warnings, the administration negotiated this CAFTA so it shattered the bipartisan foundation many of us have tried to build.

CAFTA needs to be defeated so that it can be renegotiated to meet the challenges of globalization. And that challenge is to shape a trade agreement so that it spreads more broadly the benefits provided by expanded trade, not reinforces an unsustainable status quo. Defeat this CAFTA so we can renegotiate a CAFTA that meets the challenges of globalization.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume to point out that the last couple of speakers here, including the gentleman who just left the well, voted for trade preferences for these countries with much weaker labor standards in 1983. It passed this House by 392 to 18. It passed the Senate by 99 to 0. And then with the labor standards put in there, more labor standards, it was 309 to 110. We have strengthened the labor standards.

Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, as chairman of the Committee on Energy and Commerce, which has some jurisdiction on trade, I rise in strong support of the CAFTA agreement.

Mr. Speaker, I rise today in strong support of the CAFTA agreement.

Mr. Speaker, I rise today in strong support of the CAFTA agreement. It creates market for U.S. products, especially in the textile and apparel sectors, in Central America and has the potential to be a major economic stimulus for those countries.

Ladies and gentlemen, I am a supporter of DR-CAFTA because I think it is not only as a smart policy of the United States, but also it is a way to change our whole atmosphere here in Congress.
agreements to which the U.S. is already a Party.

Chapter 17 sets out the Parties' commitments and undertakings regarding environmental protection. It draws on the North American Agreement on Environmental Cooperation and the provisions of other recent U.S. FTAs, including those with Jordan, Chile, Singapore, Australia, and Morocco. DR–CAFTA goes further however, and notably is the first American FTA that includes a process for public submission on environmental enforcement matters. The Parties must ensure that the Parties maintain a high level of environmental protection, and no Party may strive to weaken these laws to promote trade with another.

The Committee on Energy and Commerce has jurisdiction over the areas I have discussed—as well as jurisdiction over non-tariff trade barriers generally—and my Committee plans to continue to exercise its jurisdiction over trade barriers to further the expansion of free and open foreign commerce.

Finer—and aside from the actual text of the Agreement—implementing legislation offers an opportunity to show the people of the developing countries of Central America and the people of the world that when we speak of freedom and liberty and the importance of self-rule, we mean every word of it. The still-struggling democracies of the region that made DR–CAFTA need political stability to continue to grow. Economic stability and growth are important parts of that goal. Passing this legislation will help to tie these countries' futures to our own, and to reinforce our own democratic principles.

Mr. Speaker, I would again like to commend all the parties that made this Agreement possible, and to once again urge my colleagues to support unimpeded trade with foreign nations and to help strengthen economic and political stability in our hemisphere through the adoption of DR–CAFTA.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. Lewis), a member of the House Committee on Ways and Means.

Mr. LOUIE. Mr. Speaker, I rise to register my strong support for H.R. 3045. For too long, the U.S. has watched from the sidelines while other nations have traded in the global marketplace. Thanks to the leadership of President Bush and the chairman of the Committee on Ways and Means, the gentleman from California (Mr. Thomas), we passed the Trade Promotion Authority Act in 2001. This important legislation allowed the administration to engage with other countries and find opportunities for U.S. companies to sell their products to new customers. DR–CAFTA is another step towards knocking down trade barriers and opening new markets for U.S. products. DR–CAFTA countries include the two largest U.S. markets in Latin America.

The debate on CAFTA has gone on for a long time. Like many of my colleagues, I have reviewed a lot of information. The most important thing we must remember is that this agreement levels the playing field. Right now, nearly 80 percent of imports from the DR–CAFTA countries already enter the United States duty free. Again, 80 percent of imports from CAFTA countries already enter the United States duty free. By leveling the field, we are opening markets to U.S. goods.

After passage, DR–CAFTA will immediately provide duty-free treatment to nearly 80 percent of industrial products and 50 percent of agricultural products. This means jobs for U.S. workers and farmers. For the textile industry, DR–CAFTA will maintain the link between the U.S. and the region. Once passed, more than 90 percent of all apparel and fabric and yarn made in the United States. This will allow the U.S. and the region to compete against China imports. As we heard earlier, China is a concern to some of my colleagues.

Finally, trade is key to freedom. By passing DR–CAFTA, we are making a firm commitment to the leaders of these Central American countries who are fighting corruption and supporting economic reform. President Bush has made DR–CAFTA his top priority. The U.S. Trade Representative has done an outstanding job in putting together this agreement, and Chairman Thomas and Subcommittee Chairman Shaw have successfully moved the agreement through the legislative process.

Let us finish this job and pass CAFTA now, tonight.

Mr. RANGEL. Mr. Speaker, I yield 2 1/2 minutes to the gentleman from North Carolina (Mr. Jones), a distinguished member of the House and of the majority party.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman from New York for yielding me this time, and I am pleased and honored to be here to say it is time to defeat CAFTA. This is not what we need for American workers nor what we need for those in Central America. I come from North Carolina, and I want to be on the floor tonight to speak on behalf of the half of the 2.5 million American workers that lost their jobs because of NAFTA. I want to be on the floor to speak on behalf of the 2.5 million American workers that lost their jobs because of NAFTA.

NAFTA has been a failure for the American worker. Proponents of NAFTA promised that agreement would reduce illegal immigration in this country. Since then, 1993, Mr. Speaker, illegal immigration is up 350 percent. In 1993, the average annual immigrant was 546,000. This is up to 2,000 miles. This is up 10 years later it was 2.8. They did not have textile jobs, but they had jobs.

I spoke with President Clinton about it, and he said this is a jobs bill. And I said, Mr. President, this is not a jobs bill. Jobs come and jobs go. They go to cheaper fingers. It is a modest foreign policy agreement between two increasing numbers of countries that share a 2,000 mile border.

I actually own a plant in Mexico. You can pay them 58 cents an hour. But you pay them on Friday and they do not show up on Monday, and it gets very expensive as a businessman to rehire and retrain your workforce every Monday. So we now pay them $5.50 or $6.00 per hour, plus health care and profit sharing. And they are buying houses, planting grass, and buying American timeshare. This is what happens in the world. You make their economy better, and they buy more American products. And we should continue to do that.

This is a modest foreign policy agreement between America and five countries plus the Dominican Republic that will not only make them safer and us safer in our hemisphere.

In one of the speeches that Chris Patton made, who was the last British Governor of Hong Kong around the time of NAFTA, he said, "If a spaceship were to land in the teepee huts of North America or the typhoid streets of London or the warring clans of France,
they would have concluded within a millisecond that China would rule the world for centuries. China had discovered gun powder, the printing press, and had a rich and engaging culture. And then she built a wall around herself and history took a different tale.

Free trade agreements are about tearing down those walls.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Michigan (Mr. KILDEE).

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

Mr. KILDEE. Mr. Speaker, I rise in strong opposition to CAFTA.

My statement can be summed up in two words: job loss.

We are voting today on an outsourcing agreement, not a trade agreement.

If anyone here thinks that CAFTA will help our economy, they need to look at the report prepared by the international trade commission. The ITC says that CAFTA would actually increase our trade deficit with Central America while benefiting our economy by less than one-hundredth of one percent.

This same report says that sugar, textiles, apparel, electronics, transport, coal, oil and gas industries will see job losses if CAFTA is approved.

And in the case of sugar farmers and workers—like the 5,000 in Michigan—the report says job loss will be 38 times that of other industries.

The sugar industry is a major economic driver in my district and state, adding $525 million to the economy every year.

It’s unbelievable that we are even here talking about destroying the lives of so many Michigan families, just so we can increase our trade deficit with Central America.

As a Nation, we need to get our priorities straight.

CAFTA’s big brother, NAFTA, cost this country one million jobs.

And since NAFTA, our trade deficit with Canada and Mexico has increased by $100 billion.

Why then, did U.S. trade negotiators use the NAFTA model to construct CAFTA?

I implore my colleagues to make a stand with me today to not make the same mistake we made with NAFTA.

Let’s tell our constituents that their jobs are more important than big business panning for cheap labor. Vote “no” on the CAFTA!

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McDERMOTT), a senior member of the Committee on Ways and Means, and who, without his research and support, we never would have had the Africa Growth and Opportunity Bill and the trade agreements that we have passed in this House.

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

Mr. McDERMOTT. Mr. Speaker, a question you might ask tonight is: Why are we passing this Central American Free Trade Agreement?

Today, the President of the United States came up to the Republican caucus and someone reported to me that he made some statement equal to, we have had a marvelous year. Now, if you think about what has gone on in the last 6 months, you would have a hard time finding any year. I must have missed it somewhere.

Our trade deficit is as big as it has ever been in our history. So is this a fix for that? If we pass the Central American Free Trade Agreement, will that fix our problems in trade?

Let me put it in perspective for you. The combined economies of these six countries is $55 billion GDP. That is equivalent to Tampa, Florida, and the neighborhood around it. That is what kind of place we are talking about.

We are talking about a little bitty place.

Now, what do they have down there? Well, they have lots of poor people. Right? Good workers. Hard workers. A lot of them go to a lot of trouble to try to compete with people who are going to come down to the country. And people wonder why? Well, it is because they are hard-working people. They are tough, they work hard, and they go through a lot of stress and strain. So if we can keep them down in their own country and keep them working down there where they do not have any laws and move our jobs down there to them, well, who wins in that? I guess they get a 50-cent-an-hour job. That is a real improvement. With no protecting any guarantee from a union that they are going to have health care or education or worker safety or any of the things that our workers have in this country. But we have got a cheap workforce.

You heard the gentleman from North Carolina (Mr. Jones) talk about one of the underlying things here. One of the ideas about this bill is if we can keep them down there, they will not be coming in up here. We will stop that immigration. Let’s get something, folks. It has not stopped it from Mexico. It is not going to stop it from Central America. These people know. They are not stupid. They may be poor, but they can figure it out. And they can figure out working for 50 cents an hour down there is not as good as coming up here and getting involved in even the most menial jobs in this country.

So what we are saying is we have negotiated a treaty. Did we negotiate a treaty with workers? No. If you look at every single one of those countries, they are all the same. They have a very thin elite who control the whole country, and have for centuries. And all and we are doing is giving them more power to work on their workers. That, in my view, is not fair to the workers, and it is not an honest way for this country to operate. We are setting no example for the world by keeping poor workers down.

Mr. Speaker, I urge Members of the American and American business, and the best way I can do that this week is to vote against CAFTA and I urge every I Member to do the same.

We know better, it is as simple as that.

CAFTA is bad public policy that has no place in a 21st century global economy.

Free trade between the United States, and the Dominican Republic and Central America is not important, but how much trade and CAFTA does not make up. We have known this about CAFTA for some time.

For over a year, the American people kept hearing that CAFTA was coming, but it never arrived. The majority didn’t have the votes before they had not had the votes—even within their own party—by floating a blatantly unfair agreement that fails repeatedly to make real gains and real change.

For over a year, Democrats and many rank-and-file Republicans repeatedly urged the majority to act like statesmen and not henchmen for the administration.

Instead, Republican leaders have chosen destructive confrontation instead of constructive dialogue. If their strong arm tactics succeed, America will have an unfair international trade policy that will cost us our manufacturing base, and would force workers to work down where they do not have any laws and move their jobs down there to them, well, who wins in that?

The omissions are glaring in CAFTA—chief among them: environmental protection, worker rights, and fair policies that could benefit every American business, not only the few in Special interest groups that benefit U.S. textile interests and no one else.

CAFTA represented a real opportunity for the United States to apply what we have learned—both good and bad—from NAFTA and all the other trade agreements implemented over the last decade.

In CAFTA, we could have supported American and American companies. We could have led the region into creating real family wage jobs instead of any wage employment.

There is so much we could have done but what we have is a Republican majority attempting to export their philosophy of the Haves and Have-nots. “Greed is good” should not be the mantra that comes from CAFTA.

The United States and Central America needed an honest trade policy that represented the best of America and CAFTA doesn’t come close. Vote to keep America as a beacon of hope and not a bastion of greed.

We need to renegotiate CAFTA and the first step in that process is to vote “no” on this hopeless, helpless, and hapless agreement.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means who has been very active in putting together this agreement.

Mr. BRADY of Texas. Mr. Speaker, I thank the gentleman for yielding me this time. In recent years, a bipartisan Congress, Republicans and Democrats together, has extended our trade hand to our friends in Jordan. Why would we now refuse to extend the same hand of trade to our Hispanic neighbors in Central America?

This ought to be larger than raw partisan politics. This is a test of American leadership in a changing world. We
Mr. OTTER. We cannot claim to be fighting for American jobs yet turn our backs on 44 million new customers in Central America, already the tenth largest buyer of America’s goods and services, when much of the world has firmly posted “America need not apply” signs on their markets.

We cannot claim to be serious about winning the textile war against China if we turn our back on the partnership with Central America where our textile workers in America and Central America can stand together against the surge of China’s imports.

And we cannot claim to be the world’s beacon of freedom if we turn our back on Central America, a region which 20 years, amid civil war, chose the values of freedom and democracy, and, to their credit, have made absolutely remarkable progress in free and fair elections, rule of law, human rights, labor rights, and environmental protections.

Central America has painfully pulled itself up the ladder of democracy. Rather than kick them back down as opponents, we should continue to extend our hand of trade to help them pull themselves up even further.

America must not retreat or disengage. We must not abandon our commitment to democracy and human rights in our hemisphere. We must continue to stand for economic opportunity at home and abroad. This Central American trade agreement is a test we cannot fail.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. Otter) on the other side of the aisle.

Mr. Otter. Mr. Speaker, in my other life I was a salesman. As a salesman, I negotiated a few trade agreements, trade agreements between my potato company in Idaho and McDonald’s all over the world; in fact, 82 foreign countries.

I would venture to say that I could challenge anybody on this floor that I sold more potatoes, more French fries, more product for more money than probably anybody else in the United States Congress. So let me come at this from a little different perspective, and the reason I want to come at it from this different perspective is because I cannot flimflam. I cannot overpromise and underdeliver hoping that people will forget in a couple of years, a la NAFTA.

Mr. Speaker, when I was working, my boss sat down and came home with an order, you come home with an agreement, you get an agreement from somebody, you better perform on it.

So I would do this tonight, Mr. Speaker. I would tell Members, everybody that wants to adopt this agreement, put your job on the line. If in 2 years all of the things that you say are going to come true do not come true, quit. Quit the United States House of Representatives, because, my friends, you are the salesmen for the United States.

If you want to stand behind this trade agreement, you go ahead. But I am not; I would not risk, if I were you, your job on this, because as Patrick Henry said, I respect the lamp that guides my path into the future, and that is the lamp of experience.

We have experienced NAFTA. And by the way, as we stand on the shoulders of those predecessors that built the very foundation of philosophy and politics that we stand on today, let me also quote George Washington who said, if to please the people we promise that which we ourselves disprove, how will we later defend our work? You will not be able to defend your work, folks. Give it up.

Mr. SHAw. Mr. Speaker, I guess that challenge would go in both directions.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. Chocola).

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

Mr. Speaker, we have heard a lot about manufacturing jobs and about the trade deficit. I think we will probably hear more.

As one of the very few Members of this body who actually spent my entire adult life in manufacturing, I rise in strong support of DR-CAFTA. The reason I support it is because during my business career I learned a couple things. One of the first things I learned is that when you are trying to export your goods outside the United States, no tariffs is a good thing. When you do not have to pay tariffs for your products, you are exporting, you are more competitive, you sell more of your products, and you create more jobs.

The other thing I learned is that in business you have to make your decisions based on facts. If you make your decisions based on rhetoric, you will go out of business pretty darn quickly. When it comes to the trade deficit, the facts are that 82 percent of our trade deficit comes from countries we do not have trade agreements with. Thirty percent of our imports come from countries we do have trade agreements with, while 40 percent of our exports go to countries we do not have trade agreements with. And 96 percent of the world’s consumers are outside of the United States.

Mr. Speaker, the facts are if we are serious about creating jobs, if we are serious about reducing our trade deficit, we must tear down trade barriers and give American companies access to the world’s consumers, and that is exactly what DR-CAFTA does.

Mr. Speaker, if one gives people what they want, which is the facts, we are going to have a hell of a lot of companies out of this place, and this is what DR-CAFTA does. That is why I urge all of my colleagues to support it tonight.

Mr. Rangel. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Becerra), someone who has studied and is very familiar with this legislation.

Mr. Becerra. Mr. Speaker, President Reagan said it best: Trust, but verify. On CAFTA, that is all we are asking. I think most of us believe that the Central American governments want to prove that they can play by the rules in the international marketplace, but before we agree to open up America’s markets, and that means America’s jobs, to flat competition, we must know that the rules will be followed and enforced. Trust, but verify.

An agreement that merely says enforce your own existing laws fails President Reagan’s test. The truth is if the American public knew that we were about to open up America’s markets to further international competition based solely on the good faith of our competitors, they would run us out of Washington. Just as no consumer today would buy or sell a house on a handshake, neither should we open our markets with one.

When we shook hands with China and as equal to raise the important trading status with America, did we expect that they would respond by pirating America’s goods or by paying industrial wages of 60 cents an hour? That is the kind of cutthroat competition that CAFTA will permit. That kind of distorted competition will live and breathe in our neighboring Central American countries, not 6,000 miles away. Will the Central American countries feel the pressure to trade under America’s standards or China’s standards?

Mr. Speaker, no one wins in a race to the bottom. The vast majority of people in the Central American countries, the workers, the farmers, the small merchants, would not win. Certainly U.S. businesses will not win in the long run.

Mr. Speaker, it is better to lift all boats so we can trade as partners and as equals to raise the important trading status in our hemisphere. I have supported every piece of legislation for every trade agreement that has come before me in my 12 years in Congress. Regrettably, this is not a trade agreement I can support. It does not reward work in America or Central America. It is not an agreement that deserves our vote. Vote “no” on CAFTA.

Mr. SHaw. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Ryan), a distinguished member of the Committee on Ways and Means.

Mr. Ryan of Wisconsin. Mr. Speaker, I have been sitting listening to this debate, and there are a few facts that are being missed. Everybody says we should not open our markets to Central America. They are already open to Central America. We already gave them free access to the American market. I recognize.

Everybody says this is going to encourage companies to relocate to Central America. That is what we are doing today. The current system is an incentive to relocate because right now an American company can move to Central America, build their equipment or product there, and bring it back tariff free to the United States.
Right now if we want to sell a product into these countries, we have to build it there. We have to relocate jobs there if we want to sell it there in order to avoid these tariffs.

Mr. Speaker, what this simply does is open up their markets so we are opening our markets. It takes a one-way trade agreement and makes it a two-way trade agreement because we are already giving them free and fair access. That is what I call fair trade, having them treat us as we treat them.

Law enforcement in just my own State of Wisconsin. The corn tariffs, our tariff on corn, 35 percent; tariff on their corn, zero. That goes to zero tomorrow if this passes.

Tariff on American soybeans going into the CAFTA countries, 20 percent; tariff on theirs coming here, zero. Our tariffs go to zero tomorrow.

Manufacturing goods, most of our products in the State of Wisconsin that are exported is our manufacturing sector. Those manufactured tariffs and drops them so we can export more manufacturing goods and keep these jobs in Wisconsin. This is good for our States. This is good for our economy.

I beg Members say it is bad for labor. Most Republicans and Democrats voted for the Moroccan trade agreement. This is even stronger than that Moroccan trade agreement. This is the strongest labor agreement of any trade agreement we have brought to this floor to date.

Mr. Speaker, lastly, it is no secret the antidemocracy movement is trying to stop this. Let us strike a blow for democracy and help these fledging democracies and pass this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time. I rise today in opposition to this legislation. As many Members know, I frequently vote no in this House because I have a very strict rule. The rule is I look to Article I, section 8 for authority. Article I, section 8 gives very precise items that we have authority over. One is foreign commerce. We, the Congress alone, have authority over regulating foreign commerce.

This bill is a violation of that provision in the Constitution. We as a Congress do something that has not been done in the past several years that is unconstitutional in transferring this power first to the President and then to an international bureaucratic agency. This is wrong. It is not practical. It is not beneficial, it is unconstitutional, and it is a threat to our national sovereignty.

Members say it is not a threat to our national sovereignty and that we can veto what they tell us to do; but it does not happen that way. If we were interested in free trade, as the pretense is, you could initiate free trade in one small paragraph. This bill is over 1,000 pages, and it is merely a pretext for free trade.

At the same time we talk about free trade, we badger China, and that is not free trade. I believe in free trade, but this is not free trade. This is regulated, managed trade for the benefit of special interests. That is why I oppose it.

There is one specific provision in this bill that I refer to. It talks about a forum where you can come and complain about regulation on vitamins and nutritional products.

If Members are interested in freedom to buy vitamins without going to a doctor for a prescription, you have to vote against this bill. If you want international harmonization of vitamins and vitamins, you can vote for this bill, but I am opposed to that, and most Americans are as well. Vote no on this legislation.

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

Mr. Speaker, I will supply to the gentleman who just left the well the case number of the case which settles this. This is the case number 6, and it is specifically mentioned in this bill in chapter 6, paragraph number 6, and it is specifically mentioned in this case.

Mr. RANGEL. Mr. Speaker, I yield to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, I would like to talk to my colleagues who were here back in the early to mid-1980s, some of the older gentry in this body. Do you remember that time, that period of the Sandinistas fighting and the bodies in the streets of Nicaragua, Managua? Do you remember all the wrangling that went on in that place because of the war down there? Do you remember the FMLN in El Salvador and the killing that went on down there?

The same people that were involved in the leftist movements down there that Fidel Castro was supporting, the Communists down there that Che Guevara was supporting are the same people that are opposing CAFTA today because they believe in a different form of government and a different approach to government. The Sandinistas are opposed in Nicaragua to CAFTA. The leftists throughout Central and South America are opposed to CAFTA because they do not want free enterprise to flourish down there. They do not want trade to flourish.

I would like to say to my colleagues tonight, look back at history. It is extremely important that you think about not only trade, but the security of the United States and immigration. When the wars broke out in Nicaragua and El Salvador, there was a massive migration of people to the United States. Go to Miami today. There are a lot of people from El Salvador and Nicaragua because they were fleeing the war down there. The people who could not afford it came up through Mexico and started coming across the border.

I submit to you tonight if we do not pass CAFTA and help stabilize those fledging democracies and deal with the poverty problems down there, that is the same thing, to bring down that border. We are going to have more civil disorder and insurrection. There are governments down there that are trying to undermine fledging democracies with their largeesse, and they are going to continue to do that. We have to do something to combat that. In my opinion, is to support CAFTA, support trade, which will create more jobs down there and create an economy that will keep people at home and stop massive immigration into the United States. If we do not, in my opinion, there will be wars there, there will be massive immigration, and the security of the United States as well as the immigration problems will increase.

Mr. RANGEL. Mr. Speaker, I yield to the gentleman from Indiana (Mr. BURTON of Indiana). Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I love you, man. You know that. But I have got to tell you, the Sandinistas and the leftists in Central and South America are against this for the reasons I stated. If you really believe in stability in our hemisphere, and you do not want to see more conflict and massive immigration, this is a good vehicle to vote for. And I love you, man.

Mr. RANGEL. You have access to secret information from what I read in the paper, so be careful what you say because you may have to go to Niger.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), a member of the committee.

Mrs. JONES of Ohio. I would like to thank the gentleman from New York for this opportunity to be heard.

Mr. Speaker, I rise today against CAFTA because the agreement not only lacks significant labor protections for workers in the CAFTA countries, but also lacks necessary support for American workers. Charity begins at home. Let us not talk about our neighbors’ workers. Let us talk about our own workers. With international trade comes economic pain.

The United States has lost 2.8 million manufacturing jobs since January 2001. In Ohio, we have lost 200,000 jobs. Past administrations and Congresses have acknowledged a relationship between international trade and domestic job
losses by having created the Trade Adjustment Assistance program in 1962 and subsequently expanding it. The program assists workers who have lost their jobs due to international trade by extending unemployment compensation and providing job training. Training and education to keep up with worker demand. Unfortunately, that amendment was rejected. Additionally, during CAPTA markup, the Senate Finance Committee adopted an amendment that would have expanded TAA. Unfortunately, that provision was stripped from the CAFTA legislation. So right now there is nothing in TAA or in this final CAFTA legislation to assist American workers that have lost their jobs.

Mr. Oxley. That provision that Thomas originally included in the bill is stripped from the legislation. That study would have looked into whether TAA should be expanded as a result of any negative effects of CAFTA.

Mr. Pomeroy. Mr. Speaker, I represent the family farmers of the Red River Valley. They are descendants of the families that broke the prairie of the northern plains and are now raising sugar beets as part of an industry that they have grown with their own sweat and tears. This industry from the farmers to the workers in the processing plants today amounts to an economic impact of $2 billion to $3 billion and nearly 30,000 jobs in our rural region alone.

The CAFTA deal places all of this at risk. It allows sugar to pour in from the CAFTA countries whose wages have no relation to ours, and whose environmental protections in their plants are all but nonexistent. That is just the start, because this will serve as a precedent for any number of trade deals with sugar-producing counties to follow.

Some supporters argue we should not even have a domestic sugar industry anymore, that these farms and these jobs should be sacrificed at the altar of free trade just like so many jobs that have been lost in the flawed trade deals that have gone on before. We are now at the deepest trade deficit in the history of our country. My colleagues, this year we are on track to import more food than we sell. The United States of America. A net food importer.

This has to end. When will it end? When will we decide U.S. jobs are worth fighting for and that the economic hopes and dreams of our families are what we ought to be representing? It should end tonight. Tonight we stand for our constituents, their jobs, their lives, their hopes and dreams of a better life. Tonight we need to defeat this bad trade deal. Let us win one for the American people. Vote “no” on CAFTA.

Mr. Shaw. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. Kolbe), a great advocate of free trade.

Mr. Kolbe. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the Central American Free Trade Agreement. CAFTA is a little trade agreement with small economic consequences for our country, but it is a huge national security issue with enormous implications for our entire foreign policy. With CAFTA, we can close the book and forever put the decade of the 1980s behind us, or we can start at the beginning and relive the nightmares of earlier chapters in U.S. relations with Central America.

In a single generation, Central America has been transformed from a region of conflict, instability, and authoritarian regimes to a region of peace, emerging democracies, and growing prosperity.

Today we cast our votes for more than a trade agreement. We are voting for an initiative that will strengthen democracy and promote prosperity in the Western Hemisphere. It is a vote that will have enormous consequences for U.S. national security, because without economic growth and opportunity for the nations and people of Central America, the U.S. will inevitably be confronted with growing political instability and social unrest in our own backyard.

Deprive Central America of economic opportunities, and we run the risk of a return to authoritarian regimes and a rising tide of illegal immigration from places without jobs and hope.

None of us want to return to the dark days of the 1980s when the Sandinistas and the rebel groups prospered from economic policies that left people desperate for a better life, but no one standing to gain more from the defeat of CAFTA than President Hugo Chavez of Venezuela. Fueled by $100 million each day of oil money, President Chavez is already meddling in Central American affairs and would like nothing more than to pick up the pieces of an economic policy in a region shattered by the defeat of CAFTA. The Washington Post editorialized that Mr. Chavez has spread his money around the region, sponsoring anti-American and antidemocratic movements and promoting alternatives to U.S. initiatives.

Those in opposition say CAFTA will increase poverty, spur immigration, ruin the environment, and exploit workers. Nothing could be further from the truth. CAFTA does not fix all the problems facing Central America, but increased economic integration can only add jobs and help alleviate poverty, reduce the flow of migration northward, and make our region more competitive in world markets.

Mr. Speaker, let us turn the page and write a new chapter of partnership with the peoples and the countries of Central America. I urge an “aye” vote.

Mr. Rangel. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Brown), who has worked very hard in trying to perfect this legislation.

Mr. Brown of Ohio. I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I have been privileged to work closely with dozens of Democrats and Republicans in building a strong coalition against the Central American Free Trade Agreement. I would like to thank the gentleman from North Carolina (Mr. Jobs), the gentleman from Idaho (Mr. Otter) and their staffs for their outstanding efforts in helping to build this coalition.
I thank the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. LEVIN) and the gentlewoman from Maryland (Ms. CARDIN) for their leadership, as well as Tim Reif and Julie Herwig and, in my office, Joanna Kuebler and Brett Gibson for their outstanding work. And I would like to thank you to the members and staff of the CAFTA whip operation, a grassroots bipartisan operation numbering literally in the hundreds, made up of Members and staff on both sides of the aisle.

CAFTA faces broad and deep opposition because it was crafted by a select few for a select few. More than 200,000 Central American have protested the Central America Free Trade Agreement. In the United States, thousands, literally thousands of Democrats and Republicans, business and labor groups, small manufacturers, family farmers and ranchers, religious leaders have called on the administration not to reject any CAFTA, but to renegotiate this Central American Free Trade Agreement. We do want trade with Central America. We want a trade agreement that deserves to pass Congress based on its merits.

CAFTA supporters have resorted to toothless side deals and strong-arm tactics. Late last week, a CAFTA supporter and member of the congressional leadership said that he would win this vote by twisting arms until they break in a thousand pieces. By twisting arms until they break into a thousand pieces. When facts fail, they twist arms. They make deals. They buy votes.

The CAFTA debate is not a Democrat or Republican issue. The call to renegotiate crosses party lines and ideologies, as we have seen tonight. Tonight’s debate is about social and economic responsibility to our families in this country and our communities and our trading partners abroad. This agreement is about U.S. companies moving plants to Honduras, outsourcing jobs to El Salvador, and exploiting cheap labor in Guatemala. It is not about lifting up standards in the developing world. It hurts our families in this country. It does nothing for the Dominican Republic and the five Central American countries.

Mr. Speaker, when the nations’ poor can buy American products, not just make them, then we will know finally that our trade policies are succeeding.

Mr. SHAW. Mr. Speaker, I yield 2 1/2 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), who knows what it is like to lose freedom in her native country.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time and for his great leadership on this important issue.

America is the beacon of hope, the beacon of freedom and hope and opportunity for so many people. It was the beacon of hope and opportunity for my family when we came over from Cuba. America spreads democracy to every corner of the world. We stand firm in the belief that everyone is entitled to the freedom that we in the United States are so fortunate to enjoy. Open trade and free markets with democracies play key roles in sustaining that vision.

This House tonight will demonstrate our unwavering commitment to the spread of democracy by passing CAFTA. Some countries in this region were ruled with internal strife and political instability. I know. I represent many of those people who escaped from that internal strife in their countries. Although many of them have traveled a long way toward democracy in their homelands, now their homelands have arrived. They have democracies, and they are flourishing. But they need our help.

CAFTA will be a critical tool in maintaining this momentum towards a prospersous future. It will promote expanded development and openness in the region; CAFTA will also create new opportunities, economic opportunities, jobs and growth, by eliminating tariffs, by promoting transparency, and by opening markets to U.S. products going abroad.

We have a commitment to work together to promote civil society, the rule of law, and to spread democracy throughout the world, and CAFTA-DR will make it possible to do that.

(The gentlewoman from Florida spoke in Spanish.)

Mr. RANGEL. Mr. Speaker, we are privileged on this side to have someone who is very familiar with that area, who is very familiar with that area, who worked hard and became a Member of this body.

Mr. Speaker, I yield 2 1/2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank our ranking member for yielding me this time, and I thank the Members in the House tonight.

I have to tell the Members that, as a proud member of Congress, the only Member of Congress of Nicaraguan descent, I am proud to say that my mother just returned from Nicaragua. The news was not a happy sound at all. Poverty, yes, is very bad. The people there are looking for leadership in the U.S. House of Representatives. They are asking us to vote down CAFTA because they know that the government there does not realize that the people there have been suffering for over 40 years. And to this day, they are looking for Members in the House to provide support so that people there can have dignity and respect.

Why is it that we can pass an agreement like this that does not allow for people in those countries, in El Salvador and Nicaragua and Costa Rica, to collectively bargain? Why is it that in El Salvador two people who were trying to organize were shot to death in front of their houses? Why is it that we have to stand up and allow for that disgrace to occur when this country is so rich and so wealthy that we cannot provide other types of aid and assistance so that people can be empowered to do what they choose to do, to build their houses, to have dignity, to have health care?

What we are doing and are proposing tonight is that the pharmaceutical companies would take away very important medical assistance to people who are dying of HIV and AIDS in Guatemala. How dare we decide the destiny of people in Guatemala. How dare we say that we are going to raise the price of medicine for them and for their children. Yes, they are going to want to come to this country because do the Members know why? We are cutting them off at the knees.

And as a proud member of the Hispanic Caucus, 14 members, a majority of that caucus, voted against DR-CAFTA. We needed to go back to the table. We needed to have more transparency. We need to stand up for those young women who are going to be drawn into those jobs, who are going to be abused, who are currently being abused even in Mexico.

I would just like to tell the Members that in Mexico, where my father was raised, in the area of Ciudad Juarez, the people who were attracted to those jobs were ages 14 to 20 years old. These are young women who were drawn into the maquiladores. They are the same type of individuals that we have drawn into these types of factories that will work in El Salvador and Nicaragua.

Right now there are some free trade zones there. The people that I see lining up for those jobs are 14 and 16 years of age, working 12 hours a day, in an enclosure where they are not even allowed to go to the restroom without having permission.

We do not need DR-CAFTA. Please vote for humanity, for respect for the people of Latin America and Central America. I stand tall with the Democratic Party.

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

Mr. Speaker, I would say to the gentlewoman in the well that this bill contains an unprecedented amount of capacity-building in which we will give assistance to these countries to enforce their own labor laws, more than in any other bill that has ever come to the floor of this House. Enforcement provisions are within the trade bill itself.

Mr. Speaker, I yield 1 1/2 minutes to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I had real doubts about CAFTA as it started. In particular, representing a textile district, there were many textile concerns. And the very exciting thing is that this House really went to work to fix those. I am looking at the gentleman from California
(Chairman Thomas), who has worked very hard with us, along with Rob Portman, USTR, to address those concerns.

Three of them: one was pockets and linings. That is important only if one comes from a district that makes pockets and linings. I suppose, another was Mexican cumulation. And then a third was the Nicaraguan TPL.

In working through Rob Portman’s office and through the chairman, we were able to get some progress on those. Some commitments for supplemental agreements, some implementation agreements that will address those concerns and go a long way toward fixing the problem in the textile world.

It is not perfect. There are some still in textile districts that are not sure. But I stand here tonight certain that CAFTA is a wise Western Hemisphere strategy. I stand here convinced that it is the best strategy available to combine with our neighbors to the south to compete with the Chinese. If I am concerned, and I am concerned, about the future of the textile industry in competition with China, the best way that I see to fix that is to combine with our neighbors to the south. So I particularly call on those from textile districts to consider is there a better strategy.

This is the best strategy available. Let us vote for CAFTA. Let us pass it and get on with this good strategy.

Mr. Rangel. Mr. Speaker, I have been reminded by staff that the Costa Rican Government has not approved of these changes; but since they are merely side agreements, I guess that means it is on the side.

Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. Doggett), a distinguished member of the Committee on Ways and Means.

Mr. Doggett. Mr. Speaker, it is possible to enjoy the many benefits of trade extolled here tonight without having a race to the bottom on working conditions. It is possible to enjoy the benefits of expanded trade without endangering our environment. It is possible to enjoy trade without yielding our sovereignty by granting foreigners more legal rights than Americans will have under this agreement—special preferences that these foreigners can use to undermine our health and safety laws, to have a more severe 21st-century trade policy, which recognizes that we cannot measure the benefits of trade solely on how many widgets move across the border while forgetting what happens to the workers and the air we breathe and the water that we drink.

But it is impossible to accomplish any of this when the negotiators for our side come from an administration that cares as little about workers in America as those in Honduras, an administration that views the environment as just something to exploit.

I am against CAFTA because, basically, I am against protectionism. I reject an administration that protects polluters, that protects corporate wrongdoers, that protects those who think that arrogance alone can represent an effective foreign policy. I am proud to stand with the NAACP and LULAC and the League of Conservation Voters and so many Americans, who say we need a new trade policy, not yet another failed foreign policy from a narrow-minded administration.

Mr. Shaw. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. Krolenberg). Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think everybody knows. They have heard quite a bit this evening.

Trade adds growth, generates more jobs, and raises our standard of living. Passing CAFTA–DR will bring more of these benefits to our economy.

Let us be very clear: it will. This is a big deal for America. We already have a trade agreement with the CAFTA–DR countries. It is just not good enough. It is only one way. Currently, 80 percent of their exports come into the U.S. duty free. In fact, after 5 years, 390 Members of this House voted in May of 2000 to unilaterally cut and eliminate our tariffs on their goods to help their economies. And I have the list, 183 Republicans and 126 Democrats.

Tonight those same Members can now vote in favor of this trade agreement which will eliminate their tariffs on our goods and help our economy. And then when this agreement goes into effect, 80 percent of our manufactured exports and 50 percent of our agricultural exports will be immediately duty free. The rest will be phased out over 10 years.

I do not think we can ask for a better deal, and it is about time we evened the score. The facts are clear. CAFTA–DR is a great deal.

By the way, I have those results, if anybody is interested, of the vote 5 years ago.

Mr. Rangel. Mr. Speaker, I yield 2 minutes and 10 seconds to the gentlewoman from Ohio (Ms. Kaptur).

Ms. Kaptur. Mr. Speaker, I thank the esteemed Ranking Member from New York (Mr. Rangel) for granting me this time.

I want to begin by saying, Mr. Speaker, that DR–CAFTA will give us more of the great sucking sound that we said NAFTA would accelerate, and, indeed, the loss of U.S. jobs, the worsening squalor in Mexico, huge trade deficits with Mexico and Canada, as we predicted would happen.

I urge those who have been offered a deal tonight for your vote not to trade your conscience for a deal.

If you think about this, American icon companies leaving our country are—just a month ago, Brunswick Bowling Balls left Muskegon, Michigan, adding to this trade deficit, taking 115 more jobs; and then last week from Nashville, Louisville Ladder Group, 110 more lost jobs; and then this week a Kansas radiator company leaving announced it was leaving for Mexico. These jobs go to places where working conditions are terrible for so many Americans, who say we need a new trade policy, not yet another failed foreign policy from a narrow-minded administration.

Mr. Shaw. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. Hoekstra).

Mr. Hoekstra. Mr. Speaker, today we have an historic choice to make. It is a choice to unite America and our partners in Central America and the Caribbean in the continued march for progress and democracy, or a choice that pulls them into the arms of Bolivarian socialism, the clutches of Venezuela’s Hugo Chavez and Cuba’s Fidel Castro.

Mr. Speaker, if we fail to pass DR–CAFTA, then we will potentially undermine the stability of our regional democratic allies across Central America and the Caribbean. Worse, we will open the door for the Venezuelan-Cuban alliance to fill the vacuum created by our failure to construct an eco-security partnership with Central America and Caribbean democracies.

This weekend I had 300 pages translated for me to see what the people or the governments in Venezuela and Cuba were saying about this agreement. Castro and Chavez want to defeat CAFTA. I encourage my colleagues to go to the Web page, read the agreement between the President of the Bolivarian Republic of Venezuela and the President of the Council of the State of Cuba for the implementation of the Bolivarian alternative for the Americas. They have an alternative vision for Central and South America.
and the Caribbean, and it does not include the United States. Read this agreement and see where they are headed. Read their documents. Venezuela, politics of oil and energy.

The sixteenth World Youth and Student Festival meeting in Central America. Venezuela, August 7 to August 15. Here is what they have to say: Venezuela has the potential to become a center of resistance to imperialist intervention in Latin America. Holding the festival there will be a strong answer to the voiceless youth of the world to U.S. imperialism designs to pacify working people in Latin America. Where has the youth conference been held before? In 1947 it was in Prague, 1949 in Budapest.

Now is the time to stand with our allies in Central America. In the war on terror, they have been there with us. Four of these countries have sent troops to Iraq. All six of these countries are part of the coalition to defeat terrorism. Build the relationships with these countries who have stood with us. This is a good agreement. Let us move forward, and let us vote “yes” on CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman from New York for his leadership on this issue.

Let me begin with an image the President of the United States laid out before us. In his inaugural address very close to where we stand today, the President said that we have the capacity as a superpower on this planet to change the world, to reform it, to make it a better and more democratic place.

I wish that with respect to this debate, I say to the gentleman from New York, that those same values and that same vision had been brought to the floor, because the reality is that, as one American power can make a difference, this agreement is a missed opportunity.

Instead of taking these nations that struggle so much day in and day out, instead of challenging them to move to a better place, we gave up and we accepted the status quo. And one of the cruellest and strangest arguments, I say to the gentleman from New York, that I have heard tonight is that somehow we are not standing by these countries if we reject this agreement.

What a bizarre, upside-down world we would have, Mr. Speaker, if we think that we are standing by these countries when we are not standing by the millions of children between the ages of 5 and 14 who got up to go to work this morning, will get up to go to work again tomorrow morning. What a strange and bizarre world if we think we are standing by these countries when we do not stand by their voiceless and by the people who work and who are shot down in fire because they speak up for their political rights.

For the Republicans and the conservatives who support this agreement, if you believe in what your President said, if you believe that the superpower has the power to make this world, then let it begin in Central America, and let it begin by pushing these nations to do better.

The final statement I will make is that this is a values statement. We hear the word ‘values’ in this Chamber a lot. Well, the strongest value is what we take of our conscience and how we extend it to other people. A value is whether or not we push others to do better, and we fall short on the value scale tonight.

Mr. SHAW, Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ), a valued member of the Committee on Ways and Means.

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

After what we just heard from the gentleman from Alabama, I simply have to respond. We had a meeting, we members of the Committee on Ways and Means, meeting with the six economic ministers of these countries, and I have to tell the Members of this body that it was those ministers who sat in front of us and begged us, be our economic mentor, be our political mentor. Help us as developing countries to become like the great country of the United States of America. They held their hand out.

I have heard all night long about phantoms and ghosts and about how terrible things are going to happen if the United States of America, the greatest country on God’s green Earth, would not reach out and grasp a hand that is reaching toward us. How in the world can we leave an empty hand? How can we stand and say, no, you are not worthy somehow to participate in the freedom, in the dream that we as United States citizens have?

It says right up there, “In God We Trust,” and we ask God to bless us, and God has blessed this Nation. We are the greatest Nation on God’s green Earth, would not reach out and grasp a hand that is reaching toward us. How in the world can we leave an empty hand? How can we stand and say, no, you are not worthy somehow to participate in the freedom, in the dream that we as United States citizens have?

This is a values statement. This is good for America, and it is nations like the United States of America that are good neighbors. This is a good neighbor trade agreement. Neighbors. This is a chance to do the right thing.

Mr. Speaker, I have heard all night long, I have heard all night long about the horrors that are going to happen. You can go looking, you get up in the morning, you can go looking for reasons not to do something. I was raised by a guy who got up in the morning and looked for reasons to do something, to show up.

This is a bill, this is a trade agreement that the most right thing to do the right thing to do the right thing for American workers, because the day it is signed, $1 billion worth of tariffs, like an anvil around their neck, goes away.

I was in the farming business. I know what competitiveness is about. This will make our workers more competitive. This is good for America, and good for our friends in Central America. Let us support CAFTA. Let us do this, the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I have voted for every trade agreement, I say to the gentleman from California (Mr. THOMAS), that has come before this Congress; all the ones that have been listed tonight. I was not here when NAFTA passed, my dad was, but I probably would have voted for it had I been here. Large employers and others in my district and farmers all across my State benefit when markets are open.

But I ran into a problem not long ago. I was traveling through a little area, and, as a matter of fact, the son of this mayor in Crossville, Tennessee, came to me today, Mayor Graham’s son, and I ran into a lady who was there with her daughter and granddaughter. Now, the grandmother had just lost her job from a little company called Mallory in Crossville. She is about, almost 60 years old. The daughter is a middle school teacher, eighth grade teacher, and the 11-year-old granddaughter is going to sixth grade.

I felt bad for the grandmother, and I felt okay for the mom, because she had a job. The grandmother worked almost 30 years. But I felt worse for the 11-year-old, because I think about all of these trade agreements and trade policies, and I got to tell you, I like the idea of us being able to sell goods anywhere.

I come back to what the gentleman from Idaho (Mr. OTTER) said a little while ago here. I do not know what to tell the 60-year-old grandmother anymore, because I used to tell them that jobs would be created once we did these things, but she lost hers. She is past her prime, so where does she go? Does she move to India, China, Singapore, Canada, Mexico? I doubt it. The daughter at least has a job. But the granddaughter is 11 years old, and we did not have a national strategy to teach her math, science, or any of the essentials that she needs to learn to compete in a global society.

President Clinton, who supported all these trade agreements and trade policies, and I got to tell you, I like the idea of us being able to sell goods anywhere.

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President Clinton, who supported all of these trade agreements, at least had an investment agenda that accompanied his trade policies. We have neither now.

The challenge before this Congress this evening is not whether we pass this trade bill in the interests of some of my dear friends in the financial services and in the computer and IP industries and entertainment industries; the question we have tonight is, what are we doing for the 11-year-old girl? Sure, we can produce movies here in town, but will we be producing it here? Sure,
we can make things and have the capacity to do it, but will we be making things here?

I ask my colleagues, as somebody that supported you all the time, I say to the gentleman from Florida (Mr. SITTINGS), how do we answer that little girl. We tell her the world that she is going to work in is going to be a world in which there will be better labor laws, better enforced.

Now the very first time ever, the International Labor Organization spent 1 year working with these countries to upgrade their labor laws, and, everyone agrees, their labor laws meet the core standards of the ILO. For the very first time ever, the ILO is going to be the enforcement mechanism to see that those laws are enforced as enforcement is always the weakness. Always the weakness.

Many of you voted for the Jordan Free Trade Agreement. Many of you voted for the Morocco Free Trade Agreement. Not nearly as good of a body of laws in those countries, and the enforcement was: You must be making efforts towards; you must be striving to enforce. In this labor agreement, in CAFTA, the ILO will come in and review every 6 months and publicly report every 6 months: Are you implementing the plan?

Those Presidents whom we met with were proud that they are upgrading their labor laws, and their products have. And their people deserve the same respect our people do.

They do not deserve a double standard. Mr. RANGEL. I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY) for purposes of correcting the record.

Mr. KENNEDY of Rhode Island. Mr. Speaker, just to answer the lady about walking the walk and talking the talk, this administration and this Congress just cut child labor enforcement around the world by 87 percent in our dollars that we contribute to the international labor organization.

So on the one hand, you say that we are really strengthening labor law, but on the other hand not putting the dollars behind it to make sure children are protected to me does not sound like we are walking the walk that we are so talk.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the DHCA agreement. And, I stand here supporting it from a district that has a pretty significant portion of organized labor, and a district that has a pretty significant portion of manufacturing.

Many of my colleagues who support this agreement are from very similar districts. One might wonder, why, if one has been listening to the arguments from the other side of the aisle all night. But one does not wonder why if one talks into the microphone the district like we have been making over the last several months, talking to employers about this agreement.

And what we have learned was that companies employing from 12 to 600 are excited about this. American companies, with American employees, many of them organized labor, are excited about this agreement. And why? Because they have a very difficult time getting their products into Central America as it is today.

This CAFTA will cost American jobs and this is the Achilles’ heel in our approach to trade agreements which I find most disturbing. We must fix this “outsourcing of American jobs” problem in this CAFTA bill before we move forward with it. During one of our Financial Services Committee hearings, I asked Federal Reserve Chairman Alan Greenspan what he thought was the big threat to the American economy and he said the “loss of
jobs, the loss of skilled jobs. We are losing too many American jobs to overseas foreign markets and we are not investing in retaining, retooling our workforce for the technically skilled jobs of the 21st Century.

Finally, we need to ask ourselves how the Administration wants us to vote on CAFTA tonight. All over the country, they are watching us to see what Congress is going to do. I am here to tell you that the people of America want us to stand up for Americans, for change. In our trade agreements, they want us to keep American jobs in America, to protect workers' rights protect the environment and stop out sourcing jobs to other countries.

Vote "no" on CAFTA so that we can go back and fix this imbalance. We can do this and still keep trade benefits for American corporations.

To night, let's stand up for American. Ladies and Gentlemen vote "no" on CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. MELANCON).

Mr. MELANCON. Mr. Speaker, I have a lot of emotions running through me tonight. I represent a sugar area. But more important than that, I come from a sugar family. My three sisters and I owe our education and our families and our success to an industry that has been around in Louisiana for 225 years.

It is an efficient industry. It is a good industry. It is the same hard-working people that get up in the West and get up in the East and get up in the North every day. They are no different. They have just been attacked by the big multinational corporations, and you keep falling for it. NAFTA was horrible.

We were lucky, we had a side letter. We are still negotiating sugar 10 years later. I do not see any benefits for workers, for sugar people. We have given away textiles. We have given away steel. We have given away fruits and vegetables. Now let us just go ahead and give away everything and be dependent on every other country for our food and our defense.

Mr. SHAW. Mr. Speaker, I would remind the gentleman in the well that the vast majority of our agriculture community vigorously supports this bill.

Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I represent one of the richest agricultural districts in the world in Northern California, in the northern Sacramento Valley. And this CAFTA agreement will create important new export opportunities for the Northern California farmers and ranchers I represent.

These nations have already ratified this one-of-a-kind agreement. However, if this enacting legislation fails, the prospects of approving any similar agreement for the Central American countries fall as well.

Placed in a broader historical context, in May of 2000, I joined 308 of my 435 colleagues in lowering or eliminating completely the tariffs on products entering the U.S. from CAFTA nations. At the time there was no reciprocal treatment, and our U.S. products continued to face high tariffs in CAFTA nation markets.

The ratifying bill now before us will immediately zero out tariffs on 50 percent of U.S. agricultural products exported to the region, with the remaining scheduled to be reduced and eliminated over time.

This is vitally important to all U.S. agriculture, especially in my home State. California produces 350 different agricultural commodities and is America's largest agricultural exporting State. When fully implemented, it is estimated that CAFTA could help boost U.S. agriculture exports by $1.5 billion.

I firmly believe trade must be a two-way street. Currently, our Nation's agricultural exports like rice, almonds, pistachios, and dried plums, grown in my district, face average tariffs of 35 to 60 percent.

As I previously stated, we already allow 99 percent of CAFTA nations' imports duty free. Mr. Speaker, CAFTA will level the playing field for American agriculture and will help producers from California and other States gain valuable new export opportunities. I urge my colleagues on both sides of the aisle to approve this measure.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH), a former Presidential candidate.

Mr. KUCINICH. Mr. Speaker, the average hourly earnings of U.S. manufacturing workers was $16.01 in March of 2004. The average hourly wages for Honduran workers producing goods for the U.S. was 90 cents.

CAFTA is about institutionalizing cheap labor. Multinational corporations want trade agreements where they can make a profit by closing factories in the U.S. and moving jobs to places where workers have no rights and work for very low wages.

Now, I have traveled across America. And I have seen the effects of agreements like NAFTA and CAFTA: padlocked gates of abandoned factories, grass growing in parking lots of places where workers used to make steel, used to make washing machines, used to make machinery parts.

Free trade has meant freedom for the American worker to stand in the unemployment line while their jobs were traded away. So-called free trade has brought broken dreams, broken homes, broken hearts.

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding. As a mill worker at Great Northern Paper Company for over 30 years, I rise in strong opposition to CAFTA. Two days after I was sworn in as a Member of Congress, I learned that the very mill that I worked at, that my great-grandfather for 43 years, my grandfather before him for 40 years, filed bankruptcy and was shutting down.

The reason? Unfair trade policies that have devastated our industry. Job losses, something that Mainers know all about. In Maine, in the wake of NAFTA, we have lost 23 percent of our manufacturing base in the last 3 years alone. The unemployment rate in certain areas is over 30 percent.

CAPTA takes most of the language right out of NAFTA. It only has promises of more job losses. Business organizations, family farms, church groups, Republicans and Democrats are united in opposition to CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mrs. CAPPs).

Mrs. CAPPs. Mr. Speaker, I thank my colleagues tonight, do not sell the American people out for some back-room deal. Our workers deserve more.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPs).

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Mrs. CAPPs. Mr. Speaker, I thank my colleagues tonight, do not sell the American people out for some back-room deal. Our workers deserve more.
Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

We have talked a lot about a lot of different issues tonight. Let me tell you what it is all about, how it hit home with me. Mr. Felker, Avondale Mills Graniteville, South Carolina, textile manufacturer, asked me to come down Monday to his factory to look around, and we did. We had a wonderful tour. He showed us around, and I was on the floor taking a tour and happened to see the gentleman behind one of the weaver machines. Roosevelt Mims. This was not a staged event or anything like that. I just happened to see Roosevelt behind the weaver there.

I walked up to him and said, I am Congressman BARRETT. What is your name? He said, Roosevelt Mims. I said, Roosevelt, how long have you been working with Avondale Mills? He said, 36 years. His supervisor came over and whispered in my ear, he said, 36 years, Congressman, perfect attendance.

Roosevelt Mims is the heart and soul of this whole debate, a textile worker in Graniteville, South Carolina; a textile worker in Graniteville, South Carolina that a good CAFTA is going to save.

I do not know about you, but at the end of this debate, I am going to vote for CAFTA. I am going to vote for Roosevelt Mims, and I urge my colleagues to do the same.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the outstanding gentleman from California (Ms. WATERS).

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

I request Members to vote no on CAFTA.

Mr. RANGEL. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from New York (Mr. RANGEL) has 7 minutes remaining. The gentleman from Florida (Mr. SHAW) has 6 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.

Mr. GENE GREEN of Texas. Mr. Speaker, the reason we do not have enough time is we have so many speakers; but when people talk tonight about how CAFTA will help us with immigration, obviously this side voted for NAFTA, and we have had a bigger problem with illegal immigration, people who are looking for work, coming to this country.

I was in Michoacan in February and saw villages that were 60 percent populated because they had no opportunity to work, and that was 10 years after NAFTA. Just wait until 10 years after CAFTA. It is outrageous that we are trying to sell this as a benefit to the American worker.

The ILO is a weak sister compared to even our laws, and in this case if a country in Central America or Dominican Republic does not enforce their laws, themselves as a law, Come and take it, here is a new one.

This is so outrageous, I cannot believe we even have it on the floor.

To say we are worried about Venezuela the way we are worried about Cuba, do not sell it on that. Sell it on that we are really friends with Costa Rica and Nicaragua and Guatemala and the Dominican Republic. Say we are friends with them, and let us make sure they have a decent standard of living.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Ms. JACKSON-LEE). (Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is a dump in Nicaragua where 700 adults and children pick through fields of rotting garbage for scraps of food, metal and plastic to eat and sell.

I want the American people to know that this is the trade agreement, 3,600 pages, 3,000-plus pages; not one statement is in this document that talks about protecting American jobs. Not one statement is in here that confirms that the language in the laws of labor in these particular nations refers to the children age 5 and 14 to work that are working in these dumps, that are picking up the trash in these dumps.

There is no language in here about creating American jobs. There is no statement in here that talks about the language of labor laws that would protect the children from thesemdumps.

I say to you out of 3,000 pages, do you not think America deserves one line protecting their jobs? Do you not think the children of Central America deserve one specific line about keeping them from the damages of a dump in Central America?

Vote against CAFTA. It does not protect American jobs, and it does not protect children.

Mr. Speaker I rise in opposition to CAFTA though not without reservation. Increased economic and social and poverty in Central America are noble goals and ones for which we should strive. However, the facts behind the crafting of DR–CAFTA suggest that this is an irresponsible and rushed trade agreement.

I can support an agreement that serves to support the interests of all parties at stake. By this standard, I have based my previous votes on free trade agreements, and by this standard I have decided to vote against CAFTA. While I do not doubt that several parts of the US economy will benefit from passage of this bill, I shudder at the repercussions that will face many of our members.

Increased trade with this region will lead to an increase in economic exchange and probably to overall job growth. I also recognize that overall job growth as a result of NAFTA in all likelihood exceeded job losses. However, trade agreements should not be judged by job loss and creation statistics alone. CAFTA will undoubtedly create more opportunities for exports to Central America and will produce more wealth, but where does that wealth go? Thousands of hard working families will lose their jobs under CAFTA. Will they benefit from the increased trade with Central America?

The problem with wealth created through free trade agreements is the high probability it will not reach the average worker. The example of NAFTA proves this point. Some economic gains in both the United States and Mexico have made from NAFTA, but there is scant evidence as to the improvement of the livelihood of the average worker. The fact of the matter is that NAFTA has lead to neither more working conditions nor a windfall for higher paying jobs here in the U.S. Instead it has lead to more employer who pay their employees 5 dollars per day. There simply has not been enough effort on the part of the US or the Mexican government to ensure that the poor and middle classes benefited from the accord.

Trade agreements should be implemented to increase the standing of both nations and help both all people. We must guarantee the protection of rights and wellbeing of the poor. Without this guarantee, we can not nor will we make strides in fighting poverty. In the words of the Great Cesar Chavez, “What is at stake is human dignity. If a man is not accorded respect he cannot respect himself and if he does not respect himself, he cannot demand it.” When the working classes have no power or support, they cannot stand up and fight for themselves. Poverty reduction must be a key factor in all trade agreements.

The United States does not see such indent poverty. I have been to Honduras and Guatemala and have seen the pain and suffering of millions. I have seen the reality of our neighbors. 75 percent of the population lives below the poverty line. In Nicaragua, the GDP per capita is $2,300. This sort of endemic poverty is far too common in
the region. At the “La Chureca” (La—Chew-RAKE-aa) dump in Managua (mun-A-gwa), Nicaragua (kne-ka-Rah-gwa) about 700 adults and children pick through fields of rotting garbage for scraps of food, metal, and plastic to eat and sell. For these residents, the dump is bordered with danger, broken bottles and old tires, cardboard-and-tin shacks, grazing cattle, circling buzzards, screeching bulldozers and smoke that often obscures the sun. This is poverty on a level most Americans have never seen.

In order to fight this poverty, we must be committed to a comprehensive plan to help the poor. I would like to think that free trade agreements would alleviate poverty in third world nations, but unfortunately, the facts prove otherwise. Conditions in Mexico over the past 10 years demonstrate this fact quite succinctly. Since the passage of NAFTA, environmental problems along the border with Mexico have worsened, drug trafficking and violent crime in the border regions have increased, and violence against women has intensified. Ten years ago, there were few reports of kidnappings of women in northern Mexico, today they are wide spread. These are not the indicia of progress.

In order to ensure progress, we must establish a system of improved standards in education, labor, and environment, among others. In this regard, the DR–CAFTA fails drastically. The DR–CAFTA does not have sufficient labor protection provisions. This omission of labor standards will result in the continuation of awful and unconscionable labor conditions for both adults and children. What we have is an accumulation of the worst child labor throughout the region. Child labor is an activity that must eradicated from of all comers of the world. The DR–CAFTA contains no provisions that would prevent or alleviate the use of child labor. The DR–CAFTA fails to enforce international labor standards set by the International Labor Organization. This will result in the continued use of child labor in the fields and factories of the signatory countries. With this agreement, many will make money on the backs of Central American children, literally. These children are one of our biggest burden. I cannot accept an agreement that allows others to increase their profits margins on the backs of children. These children should be in school getting educated, not toiling on a farm for 5 dollars a day under the hot Central American sun.

It seems clear to me that under the current system of “free trade to fight poverty,” sufficient resources are not being used to help the poor. Businesses are often more interested in increased turnover with disregard of the consequences. What we need is an enforcement of our own labor standards to change the way businesses operate. This will result in a better quality of life for everyone. I firmly believe that America must exert our global economic leadership to promote democracy and economic growth, but that engagement must be matched with a commitment to empower middle class Americans to compete and win in the global economy. We can do better than this DR–CAFTA, and we must.

First, as a member of the House New Democrats Coalition, I have worked with administrations of both political parties, including the Bush administration, to promote policy for sustainable economic growth and a growing middle class. I have met with business leaders and officials from each of the DR–CAFTA countries, and I recently traveled to visit Honduras
and El Salvador to see for myself the conditions of these trading partners. Although I want to help the peoples of the DR–CAFTA countries to secure their democracies and build economic opportunities, this free trade agreement sounds as if it will undercut the conditions necessary for those goals. For example, in Honduras, I saw oxen pulling carts as a primary means of industrial production and impoverished workers struggling to eke out a meager living. Without strict, enforceable labor standards, workers will suffer exploitations of market forces without enjoying any upward mobility. I also want to see our trading partners make the kind of commitment to education and infrastructure that we have in the U.S. It is not enough for our economic growth and rising living standards for our people.

Unfortunately, this DR–CAFTA represents a step backwards in strengthening labor standards, and thereby standards of living, abroad. Specifically, DR–CAFTA is a step back from the progress made in the Jordan Free Trade Agreement and even the rules under the Generalized System of Preferences, GSP, and the Caribbean Basin Initiative, CBI. Americas must maintain our global economic leadership and be a force for rising living standards with all of our trading partners so that broad-based economic growth creates sustainable markets for American industries. The countries of the DR–CAFTA accord possess some of the world’s worst records for workers’ rights, and this DR–CAFTA not only fails to correct this glaring problem but reverses progress made in previous trade agreements to raise labor standards abroad.

It is also important to note DR–CAFTA’s weak environmental enforcement provisions. Although the agreement contains important protections for intellectual property that are subject to dispute resolution, it fails to include adequate enforcement of environmental protection, which will put American companies at a competitive disadvantage with companies in the DR–CAFTA countries. In fact, what language DR–CAFTA does contain on environmental protection and improvement of standards is explicitly excluded from dispute settlement under the agreement, rendering it meaningless. Previous trade pacts, such as the Jordan Free Trade Agreement, contain strong labor and environmental provisions, and DR–CAFTA should as well.

Finally, the vote on DR–CAFTA comes at a time when the Bush administration’s economic program has reversed years of progress in building a thriving middle class. Instead of making critical investments in education, training, and health care so working families can compete and prosper in the global economy, the administration is cutting these vital initiatives. Specifically, this administration and Congress have shortchanged our schools $39 billion they were promised in order to comply with the No Child Left Behind education reform law. The Bush administration contained strong labor and environmental provisions, and DR–CAFTA should as well.

In conclusion, I will vote against DR–CAFTA because it is a missed opportunity to help our neighbors in the Dominican Republic and Central America and put America back on the path to a growing middle class.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request of the gentleman from New York (Mr. ENGEL). (Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I rise in opposition to the bill, which will hurt workers and cost jobs.

I am opposed to the Central American Free Trade Agreement (CAFTA), because if enacted, it would have severe economic and social consequences for our economic growth and rising living standards for our people.

Many factory workers in Central America are underpaid and overworked, and CAFTA’s weak labor provisions will not effectively force the Central American governments to enforce their labor laws.

If CAFTA is enacted, goods produced by industries that overwork their labor force and abuse the environment will have an unfair advantage over products manufactured in the United States.

Additionally, CAFTA threatens the livelihood of U.S. sugar producers and sugar refiners, including Domino Sugar in my district in Yonkers. The countries of the DR–CAFTA accord would open the U.S. market to sugar from CAFTA countries which need not comply with the robust U.S. labor and environmental protections.

Thousands of people in Central America have protested against CAFTA. These people worry about their jobs, their health, and their families. They deserve an agreement which would improve their livelihoods and promote economic stability.

I would prefer to see reasonable, fair trade agreements which contain adequate labor and environmental protections with our Latin American neighbors.

Mr. Speaker, I have supported free trade agreements in the past when there have been adequate labor and environmental standards. But CAFTA does not measure up.

I believe CAFTA would not serve the best interests of the nation, and I urge my colleagues to vote no.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to a gentleman from California (Mr. Farr), who was a Peace Corps volunteer in South America.

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

Mr. FARR. Mr. Speaker, I want to ask this body what is the rush? There is no need to adopt. There is no deadline on this agreement. Three of the six countries have not even ratified it yet. I think when we are trying to do a trade agreement, we have got to do the best that we can do.

The richest country in the world is the United States, and we cannot support this agreement. And I ask why. This is the strongest trade agreement we have ever had. It has the best labor standards of any that we have ever had, and they voted for the others, and they cannot vote for this.

Mr. Speaker, we already have free trade. The problem is it is free trade from the CAFTA countries into the United States, not from the United States into the CAFTA countries. Now we want fair trade. We want to have the same privacy for American workers and American business, American farmers that the CAFTA countries have by having access to our markets. How can one be against that, particularly when these other countries are behind it?

We even put capacity building into this agreement so that we are assisting these countries in enforcing their own labor laws, and we put more enforcement money in this for our being able to enforce those labor laws and keep watch over these other countries.

This is a strong agreement. It is a strong agreement. But let us look at something else. The President was up here on the Hill yesterday talking to the Republican Members, and he made a statement that I think all of us can agree to, and that statement is that family values do not end at our border. And he is absolutely correct.

We know right well that any of us here as a mother and a father, that if our children are hungry, we are going to find a way to work. And so many of these countries now send their workers north into the United States, most of them illegally. We want to build jobs at home for them, permanent jobs, good jobs, and at the same time we would be able to use our markets to get to supply them.
hemisphere. Right now, in Nicaragua, the average salary, the average pay for a worker is somewhat less than $800 a year. This will help.

Politically, let us talk about it. What is going on down there politically and what will happen? We are going to be driving these countries away if we are looking towards us. They are all looking north. They have democracies now, they are capitalistic systems, and they are working towards being a part of this hemisphere. And my colleagues want us back in the teeth? They are also supporting us in our war against terror in Iraq, and that is not an easy lift for all of these countries. I can tell you that.

This CAFTA agreement has been endorsed by a number of groups, and I would like to put their endorsement in the RECORD at this time. Former President Jimmy Carter, the American Jewish Committee, and B’nai B’rith, they have all endorsed this agreement. We have also seen the endorsement by many of the newspapers, including The Washington Post and the New York Times, the Miami Herald and the Orlando Sentinel.

This is a good agreement. It is good for America, so let us vote for it.

Mr. Speaker, I submit herewith for the RECORD the letters of support I just referred to:

Hon. BILL THOMAS, Rayburn House Office Building, Washington, DC.

JUNE 8, 2005.

TO REPRESENTATIVE BILL THOMAS: As you prepare for your initial consideration of the Central American Free Trade Agreement (CAFTA) with the nations of Central America and the Dominican Republic, I want to express my strong support for this progressive move. From a trade perspective, this will help both the United States and Central America.

Some 80 percent of Central American exports to the U.S. are already duty free, so they will be opening their markets to U.S. exports more than we will for their remaining exports. Independent studies indicate that U.S. income will rise by over $15 billion and those in Central America by some $3 billion. New jobs will be created in Central America, and labor standards are likely to improve as a result of CAFTA.

Some improvements could be made in the trade bill particularly in the labor protection side, but, more importantly, our own national security and hemisphere influence will be enhanced with improved stability, democracy, and development in our poor, fragile neighbors of Central America and the Caribbean. During my presidency and now at The Carter Center, I have been dedicated to the promotion of democracy and stability in the region. The negotiation of the Panama Canal Treaties and the championing of human rights at a time when the region suffered under military dictatorships to the monitoring of a number of free elections in the region, Central America has been a major focus of my attention.

There now are democratically elected governments in all Central American countries covered by CAFTA. In negotiating this agreement, the presidents of each of the six nations had to contend with their own companies that fear competing, that fear the free trade agreements, and that even, I believe, their credibility on the line, not only with this trade agreement but more broadly by promoting market reforms that have been urged for decades by U.S. presidents of both parties. If the U.S. Congress were to turn its back on CAFTA, it would undercut these fragile democracies to retreat to protectionism, and make it harder for them to cooperate with the U.S.

For the first time ever, we have a chance to redefine how we see the region. This is the moment to move forward and to help those leaders that want to modernize and humanize their countries. Moreover, strong democracies in the region are the best antidote to illegal immigration from the region. I appreciate your consideration of my views and hope they will be helpful in your important deliberations.

Sincerely,

JIMMY CARTER.

THE AMERICAN JEWISH COMMITTEE,

Hon.
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE: We are writing to express our deep support for the free trade agreement between the U.S., the Dominican Republic and Central America. (DR–CAFTA). The American Jewish Committee has been actively involved in Latin America for many decades, promoting democracy, the rule of law and respect for human rights. We actively support free trade—and therefore DR–CAFTA—as a tool to generate sustained development in a contributing to long-term potential and strategic cooperation between the United States and some of its Latin neighbors.

We believe this historic pact makes sense for various reasons. Once in force, DR–CAFTA will become the U.S. second largest free trade agreement after NAFTA. As such it will surely contribute much to generate economic prosperity by securing increased trade and investment flows and thus better opportunities for the improvement of living standards for all of the people in this region who only two decades ago were immersed in civil wars. In addition, it will strengthen the ties between the U.S. and the Central American nations as key allies in the fight against narcotics and terrorism.

As an organization committed to U.S. leadership in world affairs, a friend of the Dominican Republic and the Central American nations, we urge you to support this important agreement which stands out as a shining example of our country’s commitment to bolstering democracy and promoting stability in Latin America and elsewhere. It represents, undoubtedly, a joint investment in a more vibrant future for our countries and for the hemisphere at large.

We thank you for your consideration of our views.

Sincerely,

E.R. GOODKIND,
President,
American Jewish Committee.
BRUCE RANZ,
Chair,
Latino and Latin American Institute.

B’NAI B’RITH INTERNATIONAL,

Hon. KEVIN BRADY,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KEVIN BRADY: On behalf of B’nai B’rith International’s more than 110,000 members and supporters, we write to urge your vote in favor of the Central America Free Trade Agreement. (CAFTA). B’nai B’rith, which has members throughout Latin America, strongly encourages the passage of CAFTA, a trade agreement with the Central American nations of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, as part of a broader support for democracy and economic stability.

B’nai B’rith, an organization with a long history of involvement in Latin America and a registered NGO member of the Organization of American States, views CAFTA as a positive step in the U.S.-Central America trade relationship, one that will greatly help the economies of Central American nations and bolster democratization in the region. We believe that the spread of democracy is essential to the advancement of human rights worldwide, we feel that CAFTA will produce lasting and far-reaching benefits.

B’nai B’rith further regards the significance of the decision by Costa Rica and El Salvador to maintain embassies in Jerusalem; they are the only two countries in the world to do so. Costa Rica and El Salvador have persisted in keeping their embassies in Jerusalem, despite intense international pressure to move them to Tel Aviv, in what has amounted to a remarkable act of solidarity with America’s greatest ally in the Middle East: the State of Israel.

We hope that you enjoy these positive trends by voting in favor of CAFTA. We look forward to remaining in contact with you on this and other issues of mutual interest in the near future.

Respectfully,

JOEL S. KAPLAN,
President
DANIEL S. MARIANI,
Executive Vice President

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

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume to note that when the chairman of the Committee on Ways and Means indicated that the speech and debate clause of the Constitution allowed us to discuss the truth, I had no idea where he was coming from. But I now truly understand why he opened up the debate that way.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. PELOSI), our gentle minority leader, who made certain that we did not make this a partisan issue, who struggled hard to keep this agreement and to try to get it open so that we could have input and have a bipartisan agreement that will close on behalf of the minority.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and, more importantly, for his distinguished leadership on many issues concerning America’s working families. I know I speak for all our colleagues when I say it is a privilege to call the gentleman from New York (Mr. RANGEL) colleague.

I also extend my thanks to the distinguished ranking member of the Subcommittee on Trade, the gentleman from Maryland (Mr. CARDIN), for his very, very substantive review of this CAFTA treaty. It has been an enormous help to me and to our country. I thank him for his leadership as well.

Mr. Speaker, I rise in strong opposition to the Central American Free Trade Agreement. It is a small treaty economically, but it has enormous implications for our country. I oppose CAFTA because it is a step backward for workers in Central America and a job killer here at home.
As a Californian, and there are many of us in the Chamber this evening, we all know full well the significance of our close ties to Central America. My own city of San Francisco is blessed with large populations of Central Americans, including those who fled sanctuaries in Salvador and those fleeing decades of civil war in Guatemala. Our fate is tied with our neighbors in the hemisphere.

President John F. Kennedy recognized when he announced the Alliance for Progress calling for "vast multilateral programs to relieve the continent's poverty and social inequities." The Alliance for Progress included both economic cooperation and called for economic reforms as conditions of participation, just as we call for stronger labor and environmental standards today as the reasonable condition for trade agreements.

Mr. Speaker, I wish that the CAFTA bill we are debating tonight were an agreed upon multilateral program. It included basic labor standards, and protected our environment. This type of agreement would have lifted the economies of both the United States and Central America. It would have attracted large numbers of Democratic Members who have long histories of supporting free and fair trade, including recent trade agreements with Australia, Singapore, Chile, Morocco, Jordan, Vietnam, and Cambodia. Unfortunately, that is not the type of trade agreement before us tonight.

Instead, we are considering a trade agreement that promotes a race to the bottom, that hurts U.S. workers, that turns back the clock on basic internationally accepted worker protections, and fails to protect the environment. As a result, the Republican leadership is having a hard time convincing its own Members to vote for this bill.

We know that our colleagues opposite, the gentleman from Ohio (Mr. Brown), talking about twisting arms until they are broken into a thousand pieces. The New York Times today, the gentleman referenced The New York Times, so I will try, said that a White House official said that the last votes are likely to be won with the most expensive deals. We should be able to pass good fair trade agreement treaties on their merits. Instead, the administration is trying to persuade people with side bars, and side deals, that have never worked in the past. They are just a con. And I hope that our colleagues will not fall for the con.

In their desperation to win votes, the President and the Republican leadership in the House have also proclaimed that CAFTA here tonight will promote U.S. security and democracy in Central America. The truth is if we want to improve our national security and promote democracy there, we should heed the words of Pope Paul VI, who said "If you want peace, work for justice."

Trade alone, devoid of basic living and working standards, has not and will not promote security, nor will it lift developing nations out of poverty. Our national security will not be improved by exploiting workers in Central America.

Here at home, this CAFTA threatens U.S. jobs by making it harder for American businesses and farmers to compete with countries that have excessively low wages and deficient working conditions. Mr. Speaker, I repeat: here at home CAFTA threatens U.S. jobs by making it harder for American businesses and farmers to compete with countries that have excessively low wages and deficient working conditions. We have lost 2.8 million manufacturing jobs since President Bush took office. CAFTA does not solve the jobs problem; it only digs the hole deeper.

These downward pressures create a race to the bottom that needlessly threaten U.S. jobs. Nothing in this agreement will help raise standards in Central America. It will not help create a strong middle class that has the disposable income to buy U.S. goods. Democrats understand the need to help our Central American neighbors reap the benefits of increased trade, but the cost to U.S. jobs CAFTA are too high, with too little to justify this agreement's deficiencies.

We must have basic worker protections which ensure that our trading partners abide by the most fundamental standards of decency, fairness and the rights standards of the international labor standards. When it comes to the environment, Democrats believe that environmental principles must be a central part of the trade agreement. CAFTA will do absolutely nothing to improve environmental protection in Central America, and it will open up our own environmental laws to attack by foreign corporations.

My colleagues, this CAFTA allows multinational corporations to sue governments, including our own, for compensation if the environmental laws reduce the value of their investment or cut their profits. I repeat: CAFTA allows multinational corporations to sue governments using our own courts for compensation if an environmental law reduces the value of their investment or cuts into their profits.

CAFTA places no value on the environmental health of the Americas. Moreover, the environmental provisions of this CAFTA are virtually nonexistent. It merely calls for CAFTA countries to enforce their own laws. Enforcement in these areas must be written in to CAFTA if they are to be effective. They are not the law of the land.

Democrats believe that to keep America in the lead, the Nation must adopt a bold new and sustained commitment to technological innovation and educational excellence. That commitment would ensure that our country remains competitive and vibrant against formidable international competition, generating high-quality jobs throughout the 21st century.

We are committed to addressing challenges of increasing competitive global market. Our economic future rests on our ability to innovate new products and to create new markets for those goods and services. We insist that this administration revisit its flawed trade policy and work with Democrats so that we can pass free trade agreements, including a new improved CAFTA that will expand markets, spur economic growth, protect the environment, and raise living standards in the United States and abroad. That would allow us to move forward with our other priorities.

Mr. Speaker, American families are facing serious challenges: rising health care costs, record gas prices, climbing college costs, and massive job layoffs. They are worried about the direction of our country. Instead of addressing the serious issues that directly affect America's families and coming up with real solutions, Republicans have abused their power and focused on the wrong priorities: pursuing an energy bill that does nothing to lower gas prices or a Social Security privatization plan that weakens the safety net for America's elderly.

Sadly, this trade agreement and the war it has been pushed by the administration has become yet another example of those misplaced priorities and missed opportunities. Again, President Kennedy said in 1961 that the United States and Latin America are "firm and ancient friends, united by history and experience and by our determination to advance the values of American civilization. We must support all economic integration, which is a genuine step toward a greater competitive opportunity." It was true then; it is an inspiration now.

I urge my colleagues to send this CAFTA back to the drawing board. The administration can negotiate a new CAFTA that will open new markets, include basic labor standards, and protect the environment. Such an agreement would attract strong bipartisan support. This CAFTA does none of the above. It does not promote our economic environment, it does not grow the economy in our country, it does not lift the living standard in Central America, and it does not have my support. Vote "no" on this CAFTA.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. Thomas), chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I wonder when this moment would come, and apparently it comes tonight.

For more than 40 years the Democratic Party was a very forward-looking, progressive party. It led us into
many new and important endeavors in helping people around the world. It was FDR that coined the phrase “good neighbor policy.” I want to explain what this is all about.

This is a letter from 20 labor leaders, and I would like to read to the minority leader. It says, The American labor movement has been one of the Democratic Party’s most consistent and stalwart supporters. Every election cycle labor delivers. We expect that House Democratic leadership willstick very strongly to all waver ing Democrats that voting for CAFTA against our strong, clear, and loud objections, would signal to the labor movement that those candidates do not want our support. Our work to help elect at-risk Members at your urging will not extend to those who vote against us on this issue.

Tonight I will tell my party, they moved from the majority to the minority. You have moved from the minority to the majority. And tonight we have an opportunity to move to the progressive, aggressive and good neighbor policy party. They have urged all-night protectionism. They have urged fear. They have urged that we do not do what is right.

All I ask of Members is tonight we have been a majority for a decade. It is time that we mature into a permanent majority. We will lead, we will be progressive, we will help our neighbors. We will not quote 40-year-old quotes about how much we want to help and, when we have an opportunity to do so, heel to the protectionism labor union movement courting this country.

Please, those freely elected Presidents came to us and said, help us. We will help them by voting “yes” on CAFTA. We will be the good neighbors.

Mr. COSTA. Mr. Speaker, I fully support global commerce.

Almonds, which I grow on my land in Fresno, have become one of California’s most valuable exports through development of foreign markets. In two-thirds of a $1 billion, one year crop is shipped outside of the United States every year. So, I truly understand the benefit of opening the world to the abundance of U.S. products. Of the producers in my district, some will win and some will lose with CAFTA.

I am here to speak on behalf of America’s best interest. That interest is a trade policy that is free and, more importantly, fair.

Unfortunately, regardless of the diligent work of the negotiators, the bi-lateral and multi-lateral agreements we have entered into are not serving America well, especially not American agriculture, if you use the last 10 years of increasing trade deficit as the standard.

The evidence of our trade failures is undeniable. Over the last dozen years, the U.S. trade deficit has grown exponentially from a deficit of $38 billion in 1992 to $668 billion last year, a incredible increase of more than $630 billion in 12 years—more than 1700 percent. This year, the Office of Trade Protection Authority may enjoyed by the President and the plethora of agreements brought before this body. America’s trade deficit is the largest it has been in nearly 50 years.

Last year, of the ships arriving from Asia to West Coast ports—Seattle, Portland, Oakland, Los Angeles—more than half of them traveled back across the Pacific empty. This is a tragic illustration of a trade policy that is not working. It is not working because these agreements give free trade, the ability to leverage our strengths as a trading partner.

Do we truly need another agreement when Japan, one of our most important trading partners, continues to refuse entry to American beef—one of our safest and highest quality food products?

For the sake of the American agricultural economy, and other American industries, we must do better. We must seriously evaluate the way in which we conduct trade, beginning with the agreements we negotiate; to look at what is working and, more importantly, what is not working.

Ten years ago, I supported NAFTA. But, with the current state of our trade situation and the weakness and our current agreements, I cannot find any sense in supporting another trade agreement that perpetuates this status quo. We need to begin with a familiar quote attributed to Albert Einstein that illustrates my hesitation about CAFTA. “Insanity is doing the same thing over and over and expecting different results.”

In light of our trade deficits, how can we approve another trade agreement and expect different, better results for the American farmer?

In conclusion, my vote today against CAFTA is a vote of protest, a vote of dissatisfaction, a line in the sand. My “no” vote today is a message on behalf of American agriculture, American businesses and American workers to the administration and my colleagues in Congress that we absolutely must develop a new trade strategy, a strategy that reverses, over time, our trade deficit.

This new trade strategy must be straight to the American public. It must define who—over the next 10, or 20, or 30 years—will be the winners and losers. Because, for America to be economically strong in the 21st century, we must have a plan to address the transitions and shifts in our domestic economy.

As participants in the 21st century economy that Thomas Friedman refers to as “the new flat earth,” American workers and business men deserve to know what their chances are in the global economy. They need to know who among them will be the winners and losers. And, throughout that deliberation, American agriculture must have a seat at the table.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong opposition to the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, DR-CAFTA. This trade agreement will allow nations that have eliminated thousands of American jobs without raising the quality of life for Central Americans and Dominicans. It is an agreement written to raise profits for multinational corporations at the expense of workers and the environment in the U.S. and the CAFTA countries. CAFTA should be renegotiated or voted down.

There is wide, bipartisan opposition to this bill here in the Congress because it endangers workers and jobs in the U.S. and abroad, it endangers our economy and it endangers the environment. Opposition to congressional ratification of CAFTA also runs deep outside of the Congress, throughout this country and the other signatory nations. The public as well as labor leaders, environmentalists, economists, and business owners and the clergy all strongly oppose the measure. Hundreds of thousands of Central Americans have taken to the streets to protest CAFTA.

I strongly support increased global trade for the United States. However, when negotiated, free trade must place human and labor rights and the protection of the environment on an equal par with the rights of capital. While CAFTA provides extensiv e protections for goods and capital, it provides no new protections for workers or the environment, and allows the signatory nations to do nothing more than enforce their own laws on labor and the environment.

Implementation of CAFTA would further the failed experiment that was NAFTA. As a result of NAFTA, my home State of Illinois has suffered the loss of over 100,000 jobs. The Nation has lost almost 1 million jobs due to the displacement of production that supported them prior to the implementation of NAFTA.

Free trade agreements like NAFTA and PNTR for China perpetuate the race to the bottom in the global economy. They lower working and living standards for workers and workers in other countries and kill jobs in the United States. CAFTA’s effects would be no different.

The labor provisions in CAFTA are intentionally unenforceable. Violations of core labor standards cannot be taken to dispute resolution committees. The commitment of any foreign labor laws is subject to remedies weaker than those available for commercial disputes. This violates the negotiating objective of current U.S. trade law that equivalent remedies should exist for all parts of an agreement. Further, the “enforce your own laws” standard allows the countries the opportunity to rewrite and weaken their labor laws to attract investment.

Instead of pursuing policies that undermine the rights and security of U.S. workers and workers in other countries, the United States should lead the world by example through a trade policy that improves the lives of individuals and does not just add to the profits of major corporations. Our policies should benefit workers here in this country, create and sustain jobs and help our small and medium-sized and family-owned businesses grow. CAFTA will not accomplish those goals nor will it offer better opportunities to the people of Central America and the Dominican Republic.

The abysmal working conditions in Mexico should serve as a sign of what CAFTA will bring to Central America and the Dominican Republic. The Mexican middle class that was supposed to arise as a result of NAFTA is missing. I visited Ciudad Juarez on the tenth anniversary of NAFTA. Instead of finding a thriving Mexican middle class, I found workers “enforce your own laws” standard, allowing them to do nothing more than enforce their own laws on labor and the environment.

I dispute the attempts by free trade proponents to reduce the debate to a choice between “free trade” and “no trade,” “this agreement” or “no agreement.” We can do better. We can achieve our economic objectives and moral responsibilities through responsible trade. And we can and should go back to the drawing board and fix CAFTA if we want to protect workers and the environment and give
the people of the DR–CAFTA countries the chance for a better future. I urge my colleagues to vote no on CAFTA so that we can renegotiate this flawed trade agreement.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the U.S.-Central American Free Trade Agreement.

For me, free trade has always been about jobs and economic opportunity. But this agreement is about much more than that. It’s also about increasing democracy in a region whose stability is fragile but moving in the right direction. It’s about improving the environment. And it’s about stemming illegal immigration.

The economic benefits of CAFTA are undeniable. CAFTA countries comprise the tenth largest market for U.S. goods, and the rapid growth of U.S. exports to CAFTA countries suggests this market could grow even more with the lowering of trade barriers.

My home State of Minnesota exported $12.7 billion in goods worldwide last year and ranks seventh in State agriculture exporters. Between 2000 and 2004, Minnesota manufacturers’ exports to Central America increased by 83 percent, which clearly demonstrates Central America’s viability as an emerging market for U.S. exports. And the elimination of protectionist tariffs in Central American countries will provide further increases in export opportunities for Minnesota farmers, manufacturers and service providers.

Passage of this agreement is so important to the U.S. economy because under the Caribbean Basin Initiative, over 80 percent of Central American imports already receive duty-free treatment. And if you separate the agriculture sector, which currently receives in excess of 99 percent of imports, 99 percent. It’s time for our farmers and manufacturers to get fair treatment by allowing our exports to have duty-free access to their market.

CAFTA’s passage is also necessary to advance overall trade liberalization. CAFTA’s failure could cause a significant setback to other bilateral agreements in the works and also to the WTO-wide Doha Round negotiations.

The U.S. must remain competitive in the global economy, especially with the emerging giants like China. Lowering trade barriers with developing countries in our hemisphere helps our overall competitiveness against China by increasing competition in growth sectors that China would otherwise dominate—like textiles, apparel and light manufacturing.

So the economic argument is rock solid, but CAFTA’s passage goes beyond economic considerations. It will also help promote democracy, decrease illegal immigration and increase environmental standards.

For nearly a decade, the U.S. spent significant resources fighting the spread of Communist and tyrannical dictatorships in Central America. Fortunately, Daniel Ortega’s Sandinistas and the other leftist insurgencies which tore Central American countries apart have since been defeated and replaced by fledgling democracies. But now another destabilizing leader—Venezuela’s Hugo Chavez—threatens peace and prosperity in the region.

Just last week, Chavez was reportedly reviving his military—warning them to be prepared for the imminent invasion by the U.S. And not surprisingly, Chavez is also the most vociferous opponent of CAFTA in the region.

Make no mistake, Hugo Chavez is licking his chops at the prospect of CAFTA’s failure—waiting to exploit our missed opportunity and trap these nascent democracies under his thumb. These Central American countries lie on the precipice of economic stability and democratic government, and they deserve a chance to develop the same freedoms we have here.

Mr. Speaker, in addition to the economic and political benefits, CAFTA’s passage will also improve environmental standards in Central America and decrease the flow of illegal immigrants from the region.

Study after study has shown that as economies improve, so do environmental standards. Once people get beyond the basic needs of food and shelter for their families, they can focus on the greater goods of clean air, clean water and conservation. Trade is not a zero-sum game. The elimination of tariffs helps increase exports and grow economies, and as the economies of Central America grow, so will their environmental quality.

Similarly, illegal immigration stems from the human desire to improve one’s economic condition. As a member of the Immigration Reform Caucus, I believe we have a long way to go to improve our border security and stop the flow of illegal immigration. An improving economy in Central America will help achieve this goal, as the increase in job opportunities in the region will encourage more people to remain in their own countries.

The empirical data supports the agreement. Trade liberalization has always had the empirical data on its side. The immediate tariff reductions found in CAFTA expand market access for U.S. farmers, manufacturers and service providers and send a signal down the path of eventual greater market access worldwide. It will also significantly improve standards of living in Central America.

Congress must now have the resolve to do what is right and pass CAFTA. The future of our economy and the political stability of our region depend on it.

Ms. LEE. Mr. Speaker, I join my colleagues from both sides of the aisle in strong opposition to CAFTA.

Mr. Speaker, this trade agreement is a complete failure for workers. The defeat of CAFTA is the only option.

Mr. Speaker, what we need is not just free trade, but fair trade.

What we need is a trade agreement that supports domestic manufacturers, while promoting labor standards overseas.

What we need is a trade agreement that protects our environment and stops corporations from trampling local governments.

And most importantly, what we need is a trade agreement that doesn’t turn back the clock to deny access to lifesaving medicine to people suffering from diseases like HIV/AIDS.

Generic competition has reduced the cost of medicine and made access to treatment a reality for millions. But due to substandard labor laws in place. CAFTA would freeze Central America’s substandard labor laws in place. CAFTA is as bad a deal for Central American workers as it is for workers in the United States.

Time and time again, the Bush Administration failed to take the needed steps to help American workers succeed in the changing global economy. When the Senate Finance Committee made a bipartisan recommendation to include aid for displaced American workers in the Bush Administration trade bill, the Bush Administration simply ignored the request.

Other matters of the worker and concerns of the people most likely to be hurt by this agreement is typical of the Bush Administration’s handling of economic policy. Instead of strengthening job training programs, the Administration has cut funding for these programs by over $750 million over the last five years. Instead of strengthening education, the Administration has cut these programs by over $500 million. Instead of addressing the health of America’s substandard labor laws in place. CAFTA is as bad a deal for Central American workers as it is for workers in the United States.

When this Administration cuts the job retraining and education assistance necessary for our workers to compete in the global economy, we should reject trade agreements like CAFTA that fail to protect workers on both sides of the agreement.

The United States has a half-trillion dollar trade deficit. American businesses are choosing not to invest at home and our economy is not competitive, not fair.

The minimum wage is at its lowest level in 50 years, and nearly 7.5 million Americans are unemployed. The Republican Congress has enacted legislation that actually creates incentives for companies to move jobs overseas.

The CAFTA agreement President Bush has submitted to Congress would open U.S. markets to products from Latin American countries with poverty-level wage scales and poor environmental conditions. In return, we get access to six countries whose combined economic footprint is smaller than that of the city of Boston.

Under this agreement, hard-working Americans will be forced to compete with nations that don’t enforce international human rights standards in wage and hour rules and child labor laws.

Rather than foster sustained economic growth, CAFTA would freeze Central America’s substandard labor laws in place. CAFTA is as bad a deal for Central American workers as it is for workers in the United States.
care crisis in this country, the Administration has brought us legislation to protect the profits of HMOs and insurance companies. I urge my colleagues to join me in voting to send the Central American Free Trade Agreement back to the White House with a clear message that we will not approve this agreement unless it reflects our priorities and values.

Mrs. BIGGERT. Mr. Speaker, I rise to urge my colleagues to cast their votes in support of DR–CAFTA for three very compelling reasons: First, the agreement will help our manufacturers, workers and farmers. Let’s face it—the U.S. is the most open market in the world. Right now, about 80 percent of the goods made in DR–CAFTA countries enter the U.S. with no duties whatsoever. In contrast, our $1.6 billion in exports face about $1 billion in tariffs and additional non-tariff barriers. That’s not fair. DR–CAFTA will change that.

Second, it bolsters our national security as it helps strengthen relationships with six very important new governments in our own backyard. If we turn our backs on the fledgling democratic regimes of the DR–International American Agreement we risk a return to the instability, leftist insurgencies, and Marxist leadership of the 1980’s. Our worldwide anti-terror efforts could all be for naught if we drive our friends in Central America back into the arms of leaders like Venezuela’s Hugo Chavez and Cuba’s Fidel Castro.

And last, DR–CAFTA is the right thing to do. Those who wish to help the anti-poor efforts in the world. Right now, about 80 percent of the apparel made in the region will be sewn from fabric and yarn made in the U.S.

I urge my colleagues to support the agreement.

Mr. SPRATTS. Mr. Speaker, there are various good reasons to vote against CAFTA, but the first is enough and it’s basic: this is not a good deal.

The U.S. is running unprecedented trade deficits—$618 billion last year, $195 billion this year in the first quarter alone. And the deficit worsens every year, weakening our economy and our independence. Virtually every trade deal the U.S. has made has resulted in far more imports than exports. Yet we keep creating free trade zones in the blind faith that the market will optimize the outcome.

Central American countries—part of the Caribbean Basin and already enjoy wide-open access to our markets by virtue of tariff Item 607, the Generalized System of Preferences, the Caribbean Basin Trade Partnership Agreement, and the Uruguay Round of GATT, which has removed all quotas on textile/apparel imports. For free trade agreements, these countries enjoy preferential access now.

In fact, the Caribbean Basin countries as a group already export more to the U.S. than Mexico and import less. The CBI countries shipped $2.6 billion in apparel exports to the U.S. versus $1.6 billion in apparel shipments from Mexico. During the most recent quarter, CBI countries imported $655 million in fabric from the U.S. Mexico imported $809 million.

Overall, in 2004 our textile/apparel trade deficit with Mexico was $3,765 versus $5,669 with CBI countries.

CAFTA purports to be based on a rule of origin adopted from NAFTA. NAFTA provides that for textile and apparel goods to move freely among Mexico, Canada, and the U.S., the yarn and fabric made in the yarn stage forward in three of these three countries. CAFTA follows the same rule, but carves out so many exceptions that the exceptions swallow the rule.

Here are some of the exceptions to the rule of origin that CAFTA allows for textiles and apparel:

- Only the component that gives the garment its essential character subject to the rule of origin. Non-essential components are excepted.
- Textile or apparel goods that contain fabric or yarn deemed “in short supply” in the U.S. are treated as originating in CAFTA, regardless of origin. This opens the door to more Chinese components entering the U.S. duty-free.
- Denim, wool, cotton, and man-made fiber woven products from Mexico and Canada, are permitted under the rule of “cumulation.” Cumulation allows countries that have free trade agreements with us to supply component parts to CAFTA countries without affecting duty-free treatment. This opens the sale of U.S. yarn and fabric to the nations and increases the likelihood that transshipped textiles from China will enter the U.S. duty-free.

For the first 10 years, CAFTA grants Tariff Preference Levels (TPL) to Nicaragua, for up to 100 million square meter equivalents of outlay and apparel garments. These goods come into the U.S. at nominal duties. This exception represents 2/3 of Nicaragua’s current capacity and opens another back door to Chinese imports.

The origin of collars, cuffs, and linings is not considered when determining the origin of the apparel goods. This allows the use of Chinese collars, cuffs and linings. CAFTA allows Central American countries to use components from anywhere—including China—to make pajamas, bras, and boxers and import them duty-free. The import of these goods from China has been found disruptive to our markets. So, they are subject to “restraints” under a special “safeguard” agreement with China. By allowing duty-free access to the U.S. for these goods, CAFTA allows China a route around the “safeguard” restraints.

Here’s another oddity about CAFTA. CAFTA benefits are retroactive to January 1, 2004. Manufacturers will receive duty rebates if CAFTA is ratified. Under the Caribbean Basin Trade Partnership Act, garments made in the region from U.S. yarns and fabrics already receive duty-free treatment. The only manufacturers who will benefit from retroactivity are the ones who want to use non-U.S. fabric as part of the single transformation, TPL, or cumulation loophole. Retroactivity is essentially an invitation from the U.S. government to manufacturers to start using non-U.S. fabrics immediately.

The U.S. has been unable to make labor and environmental standards a condition of free trade for GATT/WTO members, though they should be. Otherwise, free trade becomes a race to the bottom. Our goal should not just be to expand markets, but to raise living standards. All CAFTA says is that a country must enforce its own laws. CAFTA sanctions the status quo, doing nothing for labor or environmental laws.

All in all, CAFTA strikes a poor bargain. China is now making trade deals worldwide, using as leverage the largest emerging market in the world. The U.S. still has the largest existing market in the world. To encourage the President to go back and renegotiate the agreement, I have voted for free trade agreements with Australia, Chile, Morocco, and Singapore.

There has been a lot of exaggeration about the benefits and the problems that would be attributable to DR–CAFTA, but I look at this agreement in a larger context.

First, I believe that the Bush Administration has never done enough to provide Florida businesses with the government services they need to expand, develop new markets, and operate efficiently, especially with regard to Miami International Airport, which is the single largest employer in Miami-Dade County.

Second, we know the state of Florida lost 35,000 jobs after the passage of NAFTA. While some Florida businesses will benefit from DR–CAFTA, I don’t believe the gain in new Florida jobs will be anywhere close to the jobs that CAFTA says they will create.

The U.S. is running unprecedented trade deficits—$618 billion last year, $195 billion this year in the first quarter alone. And the deficit worsens every year, weakening our economy and our independence. Virtually every trade deal the U.S. has made has resulted in far more imports than exports. Yet we keep creating free trade zones in the blind faith that the market will optimize the outcome.

Central American countries are part of the Caribbean Basin and already enjoy wide-open access to our markets by virtue of tariff Item 607, the Generalized System of Preferences, the Caribbean Basin Trade Partnership Agreement, and the Uruguay Round of GATT, which has removed all quotas on textile/apparel imports. For free trade agreements, these countries enjoy preferential access now.

In fact, the Caribbean Basin countries as a group already export more to the U.S. than Mexico and import less. The CBI countries shipped $2.6 billion in apparel exports to the U.S. versus $1.6 billion in apparel shipments from Mexico. During the most recent quarter, CBI countries imported $655 million in fabric from the U.S. Mexico imported $809 million.
Similar language is included in some of the other FTAs I have supported in the past. But what is troubling about CAFTA is that, while Central American countries may indeed have worker protections on the books, they have a dismal record of enforcing them. This became clear to me when researching the human rights records of CAFTA countries.

I was disheartened to learn that while the constitutions of each CAFTA country provide for rights of workers, bureaucratic impediments, ineffective legal systems and insufficient resources have precipitated a culture of neglect that has left workers vulnerable to exploitation by employers.

In Guatemala, the law prohibits retribution for forming or participating in trade unions. But, enforcement of these provisions is weak. Employers often circumvent the Labor Code or simply ignore judicial pronouncements altogether.

In El Salvador, there have been repeated complaints that the government prevents workers from exercising their constitutionally recognized right of association by employing excessive judicial formalities and denying unions legal standing.

In Honduras, the Labor Code expressly prohibits retribution by employers for trade union activity and blacklisting—but such violations continue.

The Administration's response to objections about the dismal enforcement records of Central American governments is that CAFTA contains penalties to encourage such activities. While CAFTA does contain provisions crafted to encourage enforcement of labor rights, these provisions fall short of the strength needed to reverse years of indifference and systematic neglect.

CAFTA's enforcement mechanism centers on a strategy of financial penalties. Each time a party is found guilty of violating a worker's rights, that country is assessed a fine. This approach has been employed in earlier agreements with few objections. But in CAFTA, such an approach is problematic.

My principal concern is that only the U.S. has the standing to bring a case against a CAFTA country. NGOs and other international institutions, who are often the most knowledgeable about labor conditions in these countries, are forbidden from seeking redress on behalf of workers—which means that only the U.S. government will be able to take issue with labor violations under CAFTA. Given our poor history of forcing compliance with labor laws among our trading partners, I am not convinced that this approach will adequately protect Central American workers.

Equally troubling is the requirement that countries found to be in violation pay the fine back to themselves instead of to the U.S. government. This is akin to giving workers like a penalty at all.

Unfortunately, CAFTA would turn the labor conditions in some Central American countries from bad to worse. The Caribbean Basin Initiative, which currently governs U.S. trade relations with Central America provides for periodic on-site inspections like a penalty at all.

In conclusion, I continue to express my support for a U.S. Central American Free Trade Agreement that would protect U.S. interests and create economic opportunities for workers, businesses, and farmers here and in Central America. Such an agreement would help break the cycle of poverty in Central America and serve as a model for hemispheric trade. Unfortunately, the agreement your office has negotiated falls far short of meeting these goals.

Mr. SHAYS. Mr. Speaker, I rise in strong support of the Dominican Republic-Central American Free Trade Agreement. There are a whole host of reasons to support this legislation.

CAFTA will benefit both the U.S. economy and the economies of the Central American nations. Opponents of CAFTA would have us believe the North American Free Trade Agreement moved all our jobs to Mexico and seriously harmed the American economy. Contrary to their assertion, our economy's strength is due in no small part to the advancement of free trade.

Expanding trade is critical to strengthening our economy. This is especially true in Connecticut where our businesses exported $8.3 billion in 2002, up $1.1 billion since 1999. In fact, export-supported jobs accounted for an estimated 7.5 percent of the state's total private-sector employment.

Many of my friends in the labor and environmental communities have expressed concern that signing this agreement will be bad for their interests. I strongly believe by integrating ourselves with these countries, we give ourselves greater leverage to work on enforcing labor standards and environmental safeguards. Only through isolation do we risk letting these countries slip down the very path these groups are concerned about.

Furthermore, I believe the best way the United States can facilitate social and economic reforms in other countries is through an open dialogue and greater trade. Free trade lifts up the poor and creates a richer and more educated populace, which leads to the expansion of democracy and a desire to be accepted as a full member in the world community.

Leaders like Venezuela's Hugo Chavez are advancing an anti-American, anti-Western agenda in our hemisphere. It amazes me to think we would turn our back on leaders who are standing up and asking to be more closely linked with the United States.

CAFTA is good for our economy and our workers. It's good for the economies of these countries and their workers. And it's good for the stability of our continent by promoting democratic governments. I urge this legislation's passage.
Mr. FILNER. Mr. Speaker, the Republican Leadership has insisted on bringing the proposed Central American Free Trade Agreement (CAFTA) before the House tonight. CAFTA tacitly endorses labor and environmental conditions in Central America that would be a disaster in the U.S. CAFTA allows goods produced under these conditions to unfairly compete with the Imperial County sugar growers, of my district. If we pass this agreement, American farmers and ranchers that comply with U.S. environmental and labor standards will be at a grave disadvantage in our economy.

My district which encompasses the border of California and Mexico, has felt the negative impact from the failure of the North America Free Trade Agreement (NAFTA). My district has seen NAFTA’s promises broken, translating free trade into poverty; increasing social inequality; and creating severe environmental degradation.

The current CAFTA proposal would expand on NAFTA’s failures, and send the wrong message: labor and environmental standards are not necessary to produce cheap goods under horrible labor conditions.

At the minimum CAFTA should call for basic labor standards including child labor protections, and environmental standards. Make no mistake about it, CAFTA is not about national security, it’s about the exploitation of cheap labor!

Mr. HOLT. Mr. Speaker, I rise today to oppose approval of the U.S.-Dominican Republic-Central American Free Trade Agreement (DR-CAFTA).

On the floor today we are considering a far reaching and important trade agreement with our Central American neighbors, and yet we will only spend two hours debating DR-CAFTA. I am disappointed that more time was not provided to debate this highly controversial legislation. We will have spent more time this week naming various post offices than seriously debating this trade agreement. This is simply wrong. When the House considered the North American Free Trade Agreement (NAFTA), a full eight hours of debate was allowed. This is how we should consider such agreements, with meaningful and extended debate.

International trade is not just inevitable, it is a good thing. But lowering the cost of goods and increasing their availability is not the single goal of trade. Trade done right helps lift the global standard of living and works to protect the irreplaceable environment we inherited.

Trade is about values. Trade agreements are not just about goods and commodities; they are also about what constitutes acceptable behavior in environmental matters, worker’s rights, intellectual property, and so forth. We should make sure we export the goods we produce and not the workers who produce them. Unfortunately, the DR-CAFTA before us today fails these basic tests. The DR-CAFTA does not contain the values we would require in America and they would not help spread in Central America. Even the United States Conference of Catholic Bishops has come out in opposition to DR-CAFTA because of its effect on the poor and most vulnerable in Central America.

Each new trade agreement entered into by the U.S. should be very closely scrutinized. Each ought to include the strongest enforceable worker rights, human rights, and environmental safeguards attainable, like those included in the U.S.-Jordan agreement of 2000. Each should also include enforceable rules to protect intellectual property rights and guarantee access for U.S.-based corporations to foreign markets. This can be achieved in trade agreements if we enter negotiations with clear principles.

I voted against the Chile and Singapore trade agreements, for example, because the inadequate labor and environmental provisions included in them, in my estimation, failed to meet the negotiating objectives that Congress carefully spelled out in the 2002 law extending that negotiating authority to the President. They did not provide, for example, that trade dispute settlement mechanisms within those free trade agreements afford equivalent treatment to trade-related labor and environmental protection as intellectual property rights and capital subsidies, and the impending DR-CAFTA fails in this regard, too. The agreement between the US and Jordan, on the other hand, is a fine example that good agreements are achievable.

I am deeply troubled by the DR-CAFTA because the DR-CAFTA does not contain strong, enforceable provisions to protect internationally-recognized worker rights. Nor does it have any provisions for environmental safeguards. Such provisions are critical because they both preserve existing labor laws and environmental standards in the affected countries, and because they ensure that American companies will be competing on a more level playing field with our Central American neighbors. Without such provisions, U.S. companies and employees are forced to compete with countries that have inadequate wage, working conditions, or environmental protections. The people of all countries lose in such a “race to the bottom”.

Mr. Speaker, I am going to vote no on DR-CAFTA tonight, and I urge my colleagues to do the same.

Mr. KIND. Mr. Speaker, as our nation leads the world into the 21st century, we should not shy away from opportunities to guide and expand global trade. Lowering tariffs and advancing economic engagement among nations is our greatest opportunity. It also allows American companies and employees to compete with countries that have inadequate labor, working conditions, or environmental protections. The people of all countries lose in such a “race to the bottom”.

Mr. Speaker, as our nation leads the world into the 21st century, we should not shy away from opportunities to guide and expand global trade. Lowering tariffs and advancing economic engagement among nations is our greatest opportunity. It also allows American companies and employees to compete with countries that have inadequate labor, working conditions, or environmental protections. The people of all countries lose in such a “race to the bottom”.

It is critical that we build a bipartisan consensus around the importance of trade, which, unfortunately, does not currently exist. Such a consensus requires that trade agreements be balanced and fair for American workers and companies as well as for the nations with which we seek to engage. It also requires that domestic priorities be put in place to assist Americans in transitioning to the global economy.

While I have supported previous free trade agreements, it is with regret that I oppose H.R. 3045, legislation implementing the Central American Free Trade Agreement (CAFTA) between the United States and the Central American Republic and five Central American nations: Costa Rica, Honduras, Nicaragua, El Salvador and Guatemala. DR-CAFTA does not build the bipartisan consensus we must achieve to succeed in the emerging global economy.

When increasing our trade, we must be sure to do more to empower the American workforce through a comprehensive and upgraded education and workforce training policy. The single most important factor in determining America’s success in the 21st Century will be maintaining our innovation and creativity.

Over the last few years, the world has become a smaller and more integrated place thanks to technology, which has made the playing field like never before. Greater competition and collaboration exist now between countries, companies, and individuals. Meeting this challenge requires a new set of big ideas. Instead of this Administration being so eager to dismantle the new deal, it should be working with Congress to help the American people a new “New Deal.”

This new “New Deal” should provide working families with the skills to compete successfully in the 21st Century economy. We must renew our commitment to worker training programs, an education investment that emphasizes math, science and engineering, research funding in science and medicine, and a comprehensive broad-band strategy for all America.

Unfortunately, DR-CAFTA fails on a number of fronts. While the Administration has aggressively negotiated intellectual property and investor rights provisions in the agreement, it has simply not taken the same approach to protect workers’ rights abroad or address the needs of working families here at home.

Dr-CAFTA does not require nations to bring their laws into compliance with the International Labor Organization (ILO) core labor standards, even though the ILO and U.S. State Department have documented numerous areas where the CAFTA countries’ laws fail to comply with even the most basic international norms. Further, the agreement lacks critical dispute settlement and enforcement mechanisms for worker rights provisions beyond a normal fine for countries that fail to enforce their own current labor laws. Even this minimal standard is flawed, as DR-CAFTA does not require countries to maintain their current labor laws.

In addition to the inadequate labor provisions in the trade agreement, the Administration has done nothing to prepare hard-working American families for the consequences of increased trade. Rather, the Administration and Congressional Leadership have provided irresponsible tax cuts benefiting the wealthiest one percent of Americans at the expense of investing in education, skills training, and research and development.

Mr. Speaker, economics and trade need not be a zero-sum game; it can be a win-win for everyone involved as long as people have the tools to succeed. I cannot in good faith support an incomplete trade and economic policy that leaves Americans less able to be creative and innovative.

Mr. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to H.R. 3045, the Central American Free Trade Agreement (CAFTA). My opposition is based on my conclusion that CAFTA is another chapter in trade legislation that fails to provide for fair wages, evasifies worker’s rights, emasculates the environment, and contribute to our nation’s deficit.

Recent statistics from the Labor Department indicate that America has lost over 2,5 million manufacturing jobs since the passage of NAFTA. In my home state of Michigan, we have experienced a net job loss of over 200,000 manufacturing jobs due to exports.
Throughout the U.S., American workers suffer with anxiety about the elimination of their jobs each time we pass another free trade agreement. They know that factories are being relocated to foreign countries where they will be immune from paying U.S. taxes, and will be able to pay a fraction of U.S. hourly wages that range from $14 to almost $16. Each time we pass another trade agreement, their worst fears are realized.

According to the United Nations International Labor Organization (ILO), the average hourly wages in Nicaragua make 5 cents; $1 in Guatemala, and $1.25 in El Salvador. Such minuscule wages pose a tremendous incentive to Asian and U.S. manufacturers to build factories and strategic alliances in Central America. The same factories that will be created in Central America will be able to avoid strong environmental laws that exist in the U.S., thereby contributing to environmental degradation throughout Central America.

If Americans have any concerns about the pros and cons of CAFTA, we need to look at the explosion of our deficit after the passage of NAFTA. Our trade deficit with Mexico mushroomed to $15 billion from a figure of $3 billion, resulting in a loss of 200,000 high wage U.S. jobs.

I am very concerned that worker protection provisions throughout Central America will be weakened if CAFTA is passed. The legislation omits an important protection that was included in NAFTA—that labor enforcement procedures not be unnecessarily complicated. I reject the hypocrisy of a trade agreement that would sanction placing the welfare of low wage earners in jeopardy. In my state of Michigan, we have strong worker protections in place. I cannot in good conscience support a measure that would pose potential harm to workers throughout countries in Central America.

Finally, supporters of CAFTA state that its passage will facilitate the elimination of tariffs and quotas and will ultimately result in increased trade and long-term growth. In reality, increased imports of sugar from the Dominican Republic would cause of the potential adverse effects it would have on agricultural sectors. In particular, the Colorado sugar industry could be devastated by increased imports of sugar from the Dominican Republic. According to estimates, the effect of lower sugar prices after increased imports could be nearly $180 million. This means the loss of nearly 150,000 sugar-industry jobs. A report prepared by the United States International Trade Commission estimates job loss in the sugar industry will be 38 times higher than the next most harmed sector.

Not only would DR–CAFTA threaten the livelihoods of thousands of U.S. sugar farmers and workers, but it would cost taxpayers millions of dollars. Another government report reveals information condemning DR–CAFTA as a burden on taxpayers. According to the Congressional Budget Office, the influx of sugar from Central America would push prices down so low that our own sugar farmers would be forced to forfeit government loans on their crops. These forfeitures would cost taxpayers about $50 million annually through 2015. When added to a trade deficit that has ballooned to $617 billion, claims of economic gain are hard to believe.

The trade commission study states DR–CAFTA will actually accelerate the pace at which jobs are outsourced overseas. The North America Free Trade Agreement certainly helped precipitate, with estimates of nearly 900,000 jobs lost.

In the wake of NAFTA, Trade Adjustment Assistance programs were designed to assist those who lose their jobs as a result of companies moving out of the United States. More than a decade after NAFTA, the programs receive one-quarter of the needed funding. Despite progress made in recent years to improve the Trade Adjustment Assistance program, budget cuts have left many workers without access to this program when they need it most. Workers in Grand Junction were displaced this year when their jobs were outsourced overseas; I would hate to see other communities have to deal with this problem.

Since the solid economic reasoning isn’t there, curbing illegal immigration has become the new purpose of DR–CAFTA, another argument that doesn’t have the backing of facts or figures. In the wake of NAFTA, 1.3 million foreign workers in small to medium firms were forced off their land because they were unable to compete with the multinational producers. For those concerned about “broken borders,” think of this: The employed farmers and agriculture workers of 10 years ago have become the undocumented immigrants of today. I fear DR–CAFTA will create a new wave of illegal immigration from Latin America.

I will close as I began by reiterating my feelings about free trade. I support trade as part of a long-term strategy to grow our economy, support democracy, and help other nations help the American economy and national security. But trade agreements should provide real gains for U.S. workers and businesses. In any agreement, we must be vigilant about protecting our economic security. DR–CAFTA is a flawed agreement that needs to be renegotiated to address the concerns of our agricultural sector and the concerns of illegal immigration. Safeguards to protect American jobs and rural values must be strengthened before moving ahead with free trade in Latin America.

Mr. SKELTON. Mr. Speaker, over the past several weeks, I have closely studied the proposed free trade pact between the United States and Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, commonly referred to as CAFTA.

After careful consideration, research, and meetings with national security experts and representatives of Missouri agriculture, labor, and business, I have decided to vote in favor of CAFTA. While this legislation is far from perfect, I support it because—my support comes down to two issues.

First, CAFTA is a national security issue. As the ranking Democrat on the House Armed Services Committee, I have the opportunity to consider not only the military component of national security, but other elements as well. Our security depends upon the success and competitiveness of the U.S. economy. We must exert leadership, especially in our own hemisphere.

Just 20 years ago, civil wars, communist incursions, and military dictatorships oppressed and destabilized much of Central America. Because conditions in Central America are critical to our national security, the
I became convinced that this trade agreement security, agriculture, labor, and business leaders, some improvements could be made in the bill, implemented in 2024. 

annually once the agreement is fully implemented in 2024. 

exports in the Show-Me State by $33 million 

agricultural exports from our competitors in 

ican markets, giving Missouri's agricultural ex-

receive preferential access to Central Amer-

2003 and account for one-fourth of farm cash 

commodities are produced in Missouri, where 

from CAFTA countries enter the United States 

Turning our backs on a region only recently 

leaders who want to modernize and humanize 

the first time ever, we have a chance to rein-

send the wrong message to the world at a 

minish our international credibility and would 

fragile democracies, compel them to retreat to 

protectionism, and make it harder for them to cooperate with the U.S. 

For the first time ever, we have a clause to reinforce democracies in the region. This is the moment to move forward and to help those leaders prepare for their countries and humanize their countries. Moreover, strong econ-

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the moment to move forward and to help 

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duty free, while U.S. farm exports face signifi-

barriers in these markets. Many of these 

provides that this trade agreement is critical to U.S. national security and to rural 

June 8, 2005.

Hon. Bill Thomas, 

Ragghus House Office Building, Washington, DC. 

To Representative Bill Thomas: As you prepare for your initial consideration of the Central American Free Trade Agreement (CAFTA) with the nations of Central America and the Dominican Republic, I want to express my strong support for this progressive move. From a trade perspective, this will help both the United States and Central America. 

Some 80 percent of Central America's 

The SPS committee will not seek to har-

changes made in regard to a particular product—to pro-

follow strict guidelines on any claims that are 

Practices,'' or GMPs. Essentially, all ingredi-

state that I asked the U.S. Trade Representa-

his views and hope they will be helpful in your 

Sincerely, 

CAFTA and Dietary Supplements 

The debate over the potential costs and benefits of the proposed Dominican Republic-Central American Free Trade Agreement, CAFTA, has been contentious; and at times it has been dif-

ficult to separate fact from fiction and the myths from reality. In fact, I don't think I have ever seen as many wild and unsubstantiated allegations thrown around about a bill as I have seen during the debate over CAFTA. I rise tonight because one myth perpet-

CAFTA will restrict American consumers' access to the wide range of vitamin and mineral supplements of varying potencies that are li-

 as drugs. 

Mr. BURTON of Indiana. Mr. Speaker, the 

selves to: 

The Codex Guidelines provide voluntary 

Change the Dietary Supplement Health and Education Act of 1994 (DSHEA), which 

The Codex Guidelines provide voluntary 

Applying the recently adopted Codex 

Seek to harmonize national SPS regulations governing dietary supplements, Chapter Six does not require, recommend, or even mention 

The committee will simply work to assist the seven governments in carrying out their obligations under the WTO SPS Agreement. Contrary to assertions some have made, the CAFTA-DR will not require the United States to: 

Apply the recently adopted Codex 

change DSHEA in any way. 

will change the way the federal gov-

Chapter Six of the CAFTA-DR (Sanitary and Phytosanitary Measures—SPS), which so-

CAFTA to change DSHEA in any way, 

Note: WTO rules, in effect since 1995, have had absolutely no impact on the regulation or availability of dietary supplements in the United States. 

Establishes an inter-governmental com-

The SPS committee will not seek to har-

Change the Dietary Supplement Health and Education Act of 1994 (DSHEA), which 

The Codex Guidelines provide voluntary 

Applying the recently adopted Codex 

Agreement, but I do so with some reservation. While CAFTA should provide economic benefits to most industries in Florida, it does create some difficulties for our State’s sugar farmers. I am disappointed that tonight’s vote will have a negative impact on an important agricultural industry in our State, but along with this vote comes the broad economic benefits of free trade.

I have made a difficult decision tonight to support an agreement that will negatively impact some farmers in my State because of my belief in the principles of free trade. So it would be easy for me not to make a few points perfectly clear to my colleagues from other areas of the Nation, particularly the Midwest, whose farmers receive billions of dollars in farm program subsidies each year.

Unlike most commodity programs, the U.S. sugar program is designed to operate at no cost to the taxpayer. Unlike other crops, our Nation does not produce too much sugar, in fact we are the fourth largest importer in the world. We don’t have to prop up sugar farmers by finding ways to get excess sugar out of the country. We don’t have to write billions of dollars of government checks to sugar farmers to allow them to stay in business.

I want to be sure that my colleagues understand that they may be called on to make an equally hard choice in the near future. Some corn and soy farmers in the Midwest, whose crops are especially critical to the income of their fellow farmers who produce sugar cane and sugar beets. According to the President’s budget, corn farmers will receive almost $9 billion in government support for the 2004 crop alone. If sugar farmers received billions of dollars in government subsidies, they might produce a surplus like corn and be less concerned about increased imports.

I don’t raise this issue in an effort to attack other Members’ constituent industries; rather, like many of my colleagues, I am very concerned about Federal Government spending and the deficit. I just ask that those who are so quick to dismiss the concerns of my State’s farmers be willing to take the same position of responsibility when you are called on to cut spending to your farmers. There has been a great deal of scrutiny of the sugar program in recent months. It is time we applied that scrutiny to other, high cost, farm programs as well, and all do our part to cut government spending.

Mr. STUPAK. Mr. Speaker, the late Pope John Paul said, “If globalization is ruled merely by the laws of the market applied to suit the powerful, the consequences cannot be but negative.”

I agree with the late Pope John Paul. Trade is more than just economics. It’s about people’s lives and livelihoods. Our economic policies should create the rising tide that lifts all boats. Each decision we make must take into account the welfare and dignity of all people, but especially the poor and vulnerable who struggle daily to support themselves and their families.

When CAFTA is viewed through this moral framework, it is clear the agreement does not pass muster. That is why Pax Christi, Catholics for Faithful Citizenship and 34 other organizations (attached) of faith oppose CAFTA. If this agreement is enacted, the poor will get poorer and the rich will get richer.

The consequences of CAFTA will be felt by people throughout the Northern Hemisphere—from the Michigan sugarbeet farmer trying to put food on the table for his family to the poor Dominican laborer in need of basic medicines.

The developing countries affected by CAFTA have an enormous need for better access to medication. Despite these compelling health needs, CAFTA would undermine their access to affordable medicine and potentially give billions of dollars worth of patent protections to drug companies.

Closer to home, the sugarbeet farmers in Michigan will be forced off their farms as the price of sugar plummeted. Hourly workers at sugar refineries will find their jobs outsourced to other countries. These workers’ livelihoods will be ruined. We’re not talking about big Agri-business here—we are talking about small farmers who will no longer be able to support themselves. We’re talking about small businesses owners laying off their workers.

I ask the Bush Administration and the Republican leadership, “If enacted, can you imagine what kind of damage CAFTA would inflict on Michigan’s sugar industry, which ranks fourth in the country?”

With a still healthy sugar beet economy that spans 2,000 farms, employs thousands of people, and totals over $300 million annually, it doesn’t take a genius to predict that flooding our market with sugar imports will strike a blow that may be unrepairable.

The National Farmers Union, the National Family Farm Coalition, the Institute on Agriculture and Trade Policy, Michigan Sugar Company, and the Monitor Sugar Company—they understand the impact it will have on the sugar industry. Why doesn’t the House Leadership pass this bill? Or maybe they just don’t care.

This bill is bad for sugar beet growers and bad for Michigan.


Mr. Stupak said, “If globalization is ruled merely by the laws of the market applied to suit the powerful, the consequences cannot be but negative.”

I urge all of my colleagues to join me in standing up for America and our working families by rejecting CAFTA.

CAFTA is a bad deal: bad for workers and businesses in my district, bad for America, and bad for workers in Central America.

CAFTA would cause more job losses, more countries to the same standards. Workers both here at home and in Central America, while expanding the gap between rich and poor.

We all should have learned from the mistakes of NAFTA, which was passed 12 years ago and has hurt American workers.

It seems every day we read in the papers about another factory closing down. Since President Bush took office, 2.5 million manufacturing jobs have been lost. At least 750,000 of those jobs have been lost due to NAFTA. And they are not coming back.

My constituents know about the impact of offshoring. We remember when Kaiser Steel closed its factory in Fontana, California, resulting in devastating job losses that hurt hundreds of workers, their families and their neighborhoods.

I am especially concerned about the harmful effect that CAFTA would have on Hispanic communities in the U.S. because we have seen that almost half (47%) of the American workers who lost jobs due to NAFTA were Latinos.

In addition to protecting American jobs, I want to protect our homeland security and I
am concerned that CAFTA would make us less secure. Our ports and borders are already vulnerable. Many shipments of cargo enter our country without inspection. Increasing shipments of goods from Central America could pose additional threats to our security.

I am disappointed that the Administration did not work with my colleagues in the Congressional Hispanic Caucus to propose an agreement that protects American workers and businesses.

Instead, the Administration is proposing an unacceptable treaty that I cannot support. Ms. DeGETTE. Mr. Speaker, having voted in favor of every free trade agreement considered during my tenure in Congress, I have been and continue to be an avid supporter of free trade. However, I cannot, in good faith, vote for the Central American Free Trade Agreement (CAFTA) as it stands today.

Instead of helping to improve labor and environmental standards and increase the enforcement of those standards in Central America, CAFTA is a rubber stamp of the status quo. CAFTA fails to strengthen existing labor and environmental standards deliberately or meaningfully in America's favor. By removing this important—and proven—oversight mechanism, CAFTA could permissively weaken the few protections that exist for workers and the environment in Central America today.

CAFTA also includes an investment provision similar to North America Free Trade Agreement’s (NAFTA) Chapter 11, which puts profits of multinational firms before the public safety and public health of citizens in the United States and in Central American countries. With CAFTA in its current form, the Administration makes its priorities clear: corporate need and greed above all else.

At the same time it leaves workers behind in Central America, CAFTA fails to help workers here at home. When drafting CAFTA, the Bush Administration refused to expand Trade Adjustment Assistance (TAA) to service workers who stand to lose from CAFTA, and similarly, it did not increase the amount of assistance for those workers who are currently eligible under the TAA program. More generally, this Administration repeatedly refuses to fund education and training programs that would help to ensure the future competitiveness of the American people.

It is unfortunate that I, along with my other like-minded Democrats, who support free trade, are being prevented from passing a free and fair trade agreement with Central America. I believe that free, fair trade can be a powerful means to improve living standards abroad and to broaden economic opportunities for people here at home. Unfortunately, the Bush Administration negotiated this agreement behind closed doors without soliciting the bipartisan input of Congress. While the Administration has had numerous opportunities to make simple, but important changes to CAFTA, it has consistently refused, and instead, has insisted on supporting the deeply flawed agreement we have before us today—an agreement that I oppose in its current form.

Mr. LANGEVIN. Mr. Speaker, today I rise in strong opposition to H.R. 3045, to implement the Dominican Republic-Central America-United States Free Trade Agreement. While I favor expanding trade and eliminating restrictive tariffs and barriers, the DR–CAFTA agreement does not create a fair playing field for United States companies and workers to compete. I urge my colleagues to join me in rejecting H.R. 3045 and negotiating to renegotiate a more responsible trade agreement. We can do better.

For the DR–CAFTA countries, the agreement would permanently expand preferential access to the U.S. market. For U.S. businesses, CAFTA would phase out duties on manufactured and agricultural goods over 10 to 20 years. The countries involved in this trade agreement, the Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, are of extreme strategic importance to us. We must not neglect our neighbors to the south, and improving economic ties to these countries should be a top priority. However, the DR–CAFTA agreement before us today is just as likely to hurt workers in these countries as it is to help them.

While a properly written agreement could mutually benefit companies and workers in all of the countries involved, this agreement avoids specific language to improve working conditions abroad. H.R. 3045 does not contain strong environmental or labor enforcement mechanisms. The agreement requires the DR–CAFTA countries to enforce their own laws, but it does not demand compliance with the International Labor Organization’s core labor standards. Central America has among the worst working conditions in the world. In Costa Rica, for instance, more than 40 percent of the population lives on less than $1 per day, so the agreement could have vastly improved their living conditions. Instead, DR–CAFTA will likely continue the status quo of cheap labor and weak worker protections.

Likewise, DR–CAFTA does not require countries to meet any minimum standards on the environment or public health. DR–CAFTA countries have no restrictions on air or water quality, which creates unhealthy living conditions and damages the environment. If a country in the DR–CAFTA countries does not follow environmental laws, it could be fined up to $15 million, a stark contrast to intellectual property violations, which have unlimited fines under the agreement. On a level playing field, American workers can compete and win, but it is unfair for our companies to compete against a DR–CAFTA country that employs minors earning pennies per hour without the same air and water quality guidelines under which American companies operate.

In 2004, Rhode Island exported approximately $30 million to these countries, or 2 percent of the state’s worldwide exports. This agreement is important to several companies in my district, but we must go back to the drawing board to ensure American companies and American jobs are not left behind. I urge my colleagues to join me in opposing H.R. 3045 and negotiating a more responsible trade agreement.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 3045, the implementing legislation for the U.S.–Central America-Dominican Republic Free Trade Agreement (CAFTA). When big business calls Republicans always answer, and today we vote on a gift to big business paid for by American and Central American workers.

The signatory countries inked this agreement 14 months ago. CAFTA is so unpopular that the Republicans were unwilling to bring it up for a vote before the 2004 elections. Now we’re voting at the final hour with supporters relying on promised favors and twisted arms for victory. This is not the example we should be setting for growing democracies in Central America and around the world.

Beyond the example we set globally, this agreement does not include basic labor, environmental and public health standards. The trend of forcing countries to meet basic environmental standards, the agreement allows them to enforce their own substandard environmental laws. If you have ever wanted to see the pristine beauty of the Costa Rican rain forest or Lake Atitlan in Guatemala you might want to book your tickets before the “benefits” of CAFTA begin to destroy these natural wonders.

“Enforce your own laws” must be the favorite new saying in the Bush Administration because CAFTA applies this meaningless standard to labor rights as well. It would have been simple to require all CAFTA signatories to codify the International Labor Organization’s core labor standards. But the Bush Administration doesn’t care about workers rights as long as American companies have a cheap Central American labor pool to draw from. When Central American workers don’t have the right to organize, or even the right to a safe workplace, at least the Bush Administration can take solace in the fact that they have sent them low-paying jobs that used to belong to hard-working Americans.

There are other egregious provisions in CAFTA, some written for Republican benefactors like the pharmaceutical industry. At the behest of PhRMA—the Pharmaceutical Research and Manufacturers Association—the Bush Administration negotiated a sweet deal for brand name drugs that will limit CAFTA countries’ access to affordable generic alternatives.

The pharmaceutical industry will solely benefit from a provision to extend its monopolies to Central America. If this agreement is approved, the most profitable industry on the planet will get an additional five years to exploit the sick to maximize profits. This provision will raise the price of drugs for CAFTA-country residents and could limit their ability to provide more affordable generic drugs during public health emergencies.

“In countries where people make two dollars a day, it is abhorrent to eliminate cheaper generics from the market and force workers to pay for expensive, brand name drugs.

Instead of voting on CAFTA today, we should be telling the Bush Administration to renegotiate. This is a bad agreement for America and for Central America. I urge all my colleagues to ignore the Majority’s empty promises and arm-twisting and vote against this reprehensible free trade agreement.

Mr. DINGELL. Mr. Speaker, I rise in vigorous opposition to this so-called “free trade” agreement. It is a bad agreement—bad for US workers, bad for Central American workers, bad for small farmers, bad for the environment, and bad for our economy.

I take strong exception to the exclamation point not to facts, but to predictions. They talk about projected growth and theorize that our Central American neighbors will enjoy increased living standards and a better future.
We don’t have to consult a crystal ball to see what effect CAFTA will have on the lives of American and Central American citizens. We have an example before us, it is called NAFTA. CAFTA is a junior version of NAFTA; it is quite literally the “Son of NAFTA.”

Ask the people of Michigan, Ohio, North Carolina, Pennsylvania, Indiana, Oklahoma, or any other State that saw factories shuttered if they have benefited from NAFTA.

Ask the people of Mexico who have dirtier air, lost collective bargaining rights, and are now watching their factories close and move across the Pacific if they have benefited from NAFTA.

If you can look at the results of NAFTA and think our quality of life has improved; if you think there are more and better jobs post-NAFTA than before; if you think Mexico is on the verge of joining the ranks of the G–8, then CAFTA is the trade agreement for you.

Evaluate carefully the claims which will be made about CAFTA, for example, we have heard that CAFTA will open important markets for U.S. goods. Sound familiar? As we learned from NAFTA, if labor standards are not improved as part of these Agreements, few workers in these markets will be able to afford our goods.

We make cars and trucks in my home State of Michigan. American auto manufacturers are currently putting over $1,400 of health care costs into each American-made car. Yet the average Nicaraguan worker earns only about $2,300 a year. Yes, that’s for an entire year.

While the rising health care burden on American manufacturing is an important issue for another day, it illustrates the absurdity of the claims that new markets will be flooded with American products. How many cars or computers can we reasonably expect to sell in these new markets?

Instead of raising the living standards of people in Central America, CAFTA will accelerate a race to the bottom. Instead of creating new, high value jobs in the United States, CAFTA will only replace good jobs with unemployment checks.

I urge all my colleagues not only to read the details of this deal, but also to look around. Look at the closed factories, talk to unemployed manufacturing workers, and remember the promise of NAFTA.

Mr. Speaker, in closing, I can think of no better distillation of my vote against CAFTA than the old saying, “Fool me once, shame on you. Fool me twice, shame on me.” I urge my colleagues not to be fooled again.

Mr. LARSON of Connecticut. Mr. Speaker, I rise in unfortunate opposition to this DR–CAFTA agreement. represents a real missed opportunity for this Congress and this Administration to engage in real meaningful negotiation to improve trade relations between the United States, the Central American countries, and the Dominican Republic. Unfortunately, this agreement represents a step backward from over 20 years worth of U.S. laws and enforcement.

The pact falls short of the standards that any trade agreement America signs onto should meet: the broad fulfillment of America’s economic interests, the opening of fair markets for America’s goods and services and the reversal of America’s ever-growing trade deficit. While the other nations, they overlooked the American or the Central American worker. I support free—and fair—trade, but that isn’t what CAFTA will accomplish.

At a Chamber of Commerce meeting in my district, I was struck by the fact that many small manufacturers were outraged at the lack of focus by the Administration in protecting their industry and their jobs. In fact, had I closed my eyes I would have thought I was at an A.F.L.–C.I.O. rally. In a moment of candor, one of America’s largest companies started downsizing their labor force and outsourcing their work to us we were silent, we couldn’t conceive that it was only a matter of time before we too would be outsourced. When will the government do something about this?

That’s how my district sees this, and I share their view. Unfortunately, this is a missed opportunity, an opportunity where frankly CAFTA countries told us they were more than willing to accept stronger provisions if they had only been asked to. Violations of international labor standards should not be held to a different standard than other violations on matters like intellectual property.

Supporters of CAFTA also point to the fact that labor standards and working conditions will improve in the Inter-national Labor Organization, part of the United Nations which established international labor standards and which verifies that these standards are met. I guess now with this trade agreement the Administration is running out of effects as the American government has moved on to official U.S. government functions. Since when are we going to allow the United Nations to determine whether or not other countries are in compliance with our treaties?

In the typical “bait and switch” tactics of the Republican Majority, what they are not telling you here is that just a few weeks ago, they approved an $82 billion funding cut Proposed by President Bush to the principal agency that supports foreign labor standards technical assistance, virtually assuring that no oversight or enforcement will ever actually take place.

Jobs are now America’s fastest-growing export. We should be exporting our values and market goods not our jobs. As the world’s rich-est nation, we have a moral obligation to lift the standard of living of the world’s poor. It is doubly-shameful when we tell our trading partners who assemble Alabama-made clothing in their country’s factories but are not enabled to promote democracy to the south of our borders but pushes a trade agreement that consigns subsistence workers to economic bondage and forces American busi-nesses to compete on an uneven playing field. This is the wrong trade agreement for the United States and for Central America. I urge my colleagues to vote no and send this treaty back to President Bush to be renegotiated.

Mr. EVERETT. Mr. Speaker, I rise today in support of H.R. 3045, the Dominican Republic Central America Free Trade Agreement Implementation Act. Passage of this important legislation will give Alabama exporters greater access to Central American markets and bolster American security.

When I co-chaired the Republican anti-NAFTA task force in 1993, we were determined to defeat NAFTA, but we failed by a few votes. I remain convinced that NAFTA has been bad for my district and increased the Na-tion’s trade deficit with Mexico. While CAFTA and NAFTA sound alike, the two trade agree-ments have substantial differences that cannot be overlooked. NAFTA would give thousands of jobs to Mexico, while dramatically increasing the flood of Mexican made products into the U.S. market. CAFTA, meanwhile, gives U.S. goods the same market access to Costa Rica, the Dominican Republic, El Salvador, Guate-mala, Honduras, and Nicaragua as those countries already enjoy here, thereby leveling the playing field for American exporters.

Ratifying CAFTA actually benefits the United States significantly more than it does Central America. CAFTA gives America 90 percent duty-free access to our markets. CAFTA simply gives American companies and workers equal access to Central America. As such, Alabama agriculture and other industry will benefit from the ability to export more goods duty-free, resulting in lower prices and increased consumption in this area. Alabama ranks eighth among all U.S. states in exports to Central America and that is expected to grow with CAFTA’s passage.

However, I did not give my support to this agreement without carefully considering several issues. First, I remain concerned about saving thousands of remaining textile jobs in Alabama and protecting agriculture and other industries in my district. Secondly, I have serious concerns over the return of leftist governments in the struggling democratic countries that are a part of CAFTA and the harm that would do to our national security. Fi-nally, I also have concerns about the threat of illegal immigration.

Most of the Alabama textile plants that survived the effects of NAFTA did so by establishing relationships with Central American partners who assemble Alabama-made components. This delicate balance would be upset if this relationship were not allowed to con-tinue; ultimately forcing the remaining U.S. textile industry to move to Asia. CAFTA will strengthen this beneficial arrangement by making these current trading arrangements permanent.

While I have consistently supported tougher immigration laws, the Congress has resisted approving some of these measures. Also, the Administration has not been as helpful as I would like in trying to solve the border security problem.

I am convinced that should CAFTA fail the illegal immigration flow into America would in-crease. Venezuelan president Hugo Chavez is using his country’s vast oil wealth to create anti-American and anti-democratic upheaval in the countries affected by CAFTA. Should CAFTA fail and Chavez is successful in bringing down these fragile governments, thou-sands more would flood our borders seeking to escape new leftist regimes. Such an unstable situation would increase many times over our worry of terrorists crossing into the United States.

In summary, passage of CAFTA will provide a tremendous economic boost to our critical industrial base, support fledging democracies in a crucial part of the world, and help stem the tide of illegal immigration into the U.S.

I urge all of my colleagues to support this measure.

Mrs. TAUSCHER. Mr. Speaker, I rise today to voice my strong opposition to the Domini-can Republic-Central American Free Trade Agreement and intend to vote it against.

I am proud to be a pro-trade Democrat in Congress and am proud of my record—having supported every free trade agreement since I took office in 1997.

I voted in favor of granting the President Trade Promotion Authority in 2002 and voted against withdrawing from the World Trade Or-ganization in 2000 and again earlier this year.
I am a long-time member, and the current chair of the New Democrat Coalition, a group of members who often support free trade. We see our role as a group of pro-business, pro-defense, and pro-trade leaning members who seek ways to open foreign markets to American goods and services. I also co-chair the Friends of New Zealand Caucus in the House, and hope we may soon see a free trade agreement with New Zealand.

Mr. Speaker, I believe that free trade, when organized properly, benefits our economy. It can only help to improve our relations with the other nations involved.

In the case of CAFTA, I want to see our Nation maintain close ties with our neighbors in Central America. Our economic security and our National security depend on cooperative relationships with our friends and allies.

However, in pursuing free trade, we must also consider the impact and direct effects the agreements will have on workers—both here and abroad.

And CAFTA fails to provide adequate protection.

It simply does not do enough to invest in basic job training and education for Americans—specifically those Americans who lose their jobs due to trade.

The current budget for Trade Adjustment Assistance is insufficient: the President’s 2005 request is 500 million less than Congress authorized for FY 2004, despite the obvious needs for job training and retraining. What’s worse, Mr. Speaker, is that CAFTA does not provide any TAA funds for service workers, who comprise 80 percent of today’s American workforce and produce three-quarters of our products. When job training programs go under funded, American workers are at risk.

Furthermore, CAFTA is the first FTA negotiated by the United States with developing countries, some of which have weak labor laws and a history of suppressing the rights of their workers.

We need to do all in our power to ensure that this agreement helps these countries raise their working standards. Unfortunately, the labor chapter requires that each country simply enforce its own laws. It does nothing to require the DR–CAFTA countries to improve their laws to reflect fairness to working people. There are also no safeguards in the agreement to prevent countries to explicitly weakening their labor laws. This “enforce your own laws” standard is a giant step backwards.

Under our current trade policy, the Caribbean Basin Initiative allows us to withdraw trade benefits from countries who violate the labor standards of the agreements they have signed. If CAFTA goes into effect, those remedies are wiped out and simply replaced with the “enforce your own laws” standard.

This labor agreement is simply unacceptable.

And finally Mr. Speaker, I feel compelled to say a word about the legislative process here in Congress. I would be remiss if I did not do so.

This Administration has made a habit of regularly excluding Democrats from the table during the negotiation and drafting of all major legislation. We saw this with the energy bill, the Medicare prescription drug bill, and again with CAFTA. We were not consulted at all on this FTA.

We all have valid ideas and concerns worthy of discussion regarding improving inter-national market economies and they need to be fully and fairly debated. That did not happen with CAFTA. We were not engaged. I thought that at some point in the process members of the New Democrat Coalition would be consulted, as we generally support free trade. However, I was wrong. There was no outreach from House leaders or from the President to us.

One would think that after the passage of Trade Promotion Authority in 2002—by a 3 vote margin—a clear signal was sent to the Administration that passing free trade agreements—especially the pharmaceutical chapter—ought to be on the table. Instead of heeding past warnings, they have continued to make a habit of regularly excluding Democrats. CAFTA has been no exception.

As a result of poor negotiations with the Democrats and a lack of steady involvement by the President with members of his own party, on the day of the CAFTA vote, President Bush made an eleventh hour trip to Congress to twist arms in hopes of squeezing out the minimum number of votes needed to pass this agreement.

Mr. Speaker, trade should not be a Republican or Democrat issue. It is an American issue. Passing trade agreements by one or two votes, in the dead of night when both the American and Central American people are sleeping, is not the way to have a responsible trade policy.

Both the people of Central America and workers here in the United States deserve better.

Mr. WAXMAN. Mr. Speaker, it is with great disappointment that I rise in opposition to CAFTA. I support free trade. Trade agreements are an important tool to strengthen ties with strategic partners, expand opportunities for American industry, and improve the standard of living. Unfortunately, I believe that this agreement will do more harm than good.

Among my chief concerns, the agreement perpetuates weak and unenforced labor and environmental standards. The failure to raise these standards will hurt Central Americans and create unfair competition for American workers.

CAFTA would also allow foreign companies to bypass the U.S. court system and challenge Federal, State and local laws and regulations through a veiled and unaccountable trade tribunal.

But, today I would like to focus my remarks on a major issue that unfortunately has gotten relatively little attention in this debate, which is that CAFTA will seriously impede access to essential medicine in poor developing countries.

In June, the minority staff on the Government Reform Committee released a report entitled “Trade Agreements and Access to Medications Under the Bush Administration.”

The complete report is available at www démocrats.reform.house.gov and I would ask unanimous consent that the Executive Summary be printed in the CONGRESSIONAL RECORD.

The alarming conclusion the report reached is that under CAFTA, patients in poor countries will often have to wait longer than those in the United States to gain access to generic drugs.

Specifically, CAFTA would block governments from approving the sale of generic drugs for at least five years after a new drug is introduced, even if the drug’s patent has already expired. The agreement would also inhibit generic competition with patent extensions and other measures that will make it harder for drug regulators to approve generic drugs.

The impact will be devastating in the developing world where large poor and uninsured populations cannot afford brand name drugs. For many patients suffering from diseases like AIDS, tuberculosis, heart disease and cancer, waiting five years to afford new cures will mean the difference between life and death.

Currently, the pharmaceutical companies actually stand to gain little from these protections in a region of the world that barely represents one half of one percent of the global drug market. But the companies view this trade agreement as a cookie cutter model for USTR to negotiate with all countries regardless of the consequences.

The Bush Administration has boldly advanced the pharmaceutical agenda, claiming that the provisions are merely an extension of a U.S. law known as Hatch-Waxman. As an author of that legislation, I could not disagree more.

Hatch-Waxman was a carefully crafted measure that reflects both the need to promote innovation and the need to facilitate generic competition. In contrast, CAFTA does not establish a proper balance between the interests of the drug companies and consumers, between intellectual property rights and the human rights of patients.

It is reckless and dangerous to force our partners in the developing world to trade away their timely access to inexpensive, lifesaving medications.

It is irresponsible for the United States to undermine its commitment to the 2001 Doha Declaration, which expressly called for trade rules to respect public health needs.

It is wrong for CAFTA to advance the financial interests of large multinational drug companies at the expense of the developing world’s ability to address public health problems.

If we defeat CAFTA today, we can put pressure on the Bush Administration to change course. Then we can vote on an agreement that is both ethically and economically sound.

Executive Summary

In 2001, 142 countries, including the United States, adopted “the Doha Declaration,” an international agreement that trade obligations should be interpreted and implemented in ways that protect public health and access to essential medications. In August 2002, the U.S. Congress passed the Trade Promotion Authority Act, which directs adherence to the Doha Declaration in U.S. trade negotiations.

Since the adoption of the Doha Declaration and the passage of the Trade Promotion Authority Act, the Bush Administration has signed and Congress has ratified bilateral free trade agreements with three developing countries: Chile, Singapore, and Morocco. The Administration has also completed a proposed free trade agreement, commonly referred to as CAFTA, with five Central American nations and the Dominican Republic, and a bilateral agreement with Bahrain. In addition, CAFTA is negotiating more free trade agreements with 13 developing countries have been initiated, including a proposed agreement with four Andean nations. Negotiations have also continued on the Free Trade Agreement of the Americas (FTAA).
At the request of Rep. Henry A. Waxman, this report examines whether the Administration is complying with the Doha Declaration in its pursuit of these trade agreements. The report finds that contrary to the Doha Declaration, U.S. trade negotiators have repeatedly used the trade agreements to restrict the ability of developing nations to acquire affordable drugs and create new incentives to improve standards over time. In fact, CAFTA weakens labor protections by removing an existing oversight mechanism available under our current system of trade preferences for the region.

CAFTA also incorporates NAFTA's troubling Chapter 11 provisions, which effectively give foreign investors the right to challenge U.S. health, safety and environmental laws. California has been at the forefront of efforts to protect its communities from air and water pollution, yet CAFTA gives foreign investors the right to challenge our state law if it affects their commercial interests.

Free and fair trade can lift living standards both at home and abroad, encourage technological innovation, create jobs and empower individuals. But each agreement must be considered on its merits. Bilateral agreements with Chile, Singapore, Jordan, and Australia; normal trade relations with China; and renewal of “fast track” approval were issues I supported.

But trade is not fair if desperate people are forced to work in hazardous conditions or communities are forced to bear the costs of environmental degradation. In the context of lax enforcement of labor and environmental regulations, free trade can provide perverse incentives to impose the costs of production on workers, communities and the environment. Such incentives serve neither the economic interests of the U.S. nor our trading partners.

Mr. Speaker, with respect to CAFTA, I echo my refrain from 10 years ago: “Not this treaty, and not now.” The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to House Resolution 386, the bill is considered read, and the previous question is ordered. The question is on the engrossment and third reading of the bill. The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE
Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on H.R. 3945 will be followed by a 5-minute vote on suspending the rules on H. Res. 306.

The vote was taken by electronic device, and there were—ayes 217, noes 215, not voting 2, as follows:

AYES—217

Aderholt          Gerlach          Nunes
Alexander         Gilchrest       Ortiz
Bachus           Gilmor          Osborn
Bakos             Gingrey         Oxley
Barrett (SC)      Gohmert         Pace
Bartlett (MD)    Goodlatte       Pence
Butterfield (TX)  Graves          Peterson (PA)
Bean              Green (WI)      Pitts
Beveigh          Harris          Platts
Biggert          Hart           EDIA
Bilirakis         Hastert          Pombo
Blackburn         Hastings (WA)  Porter
Bunt             Hayes           Price (GA)
Brown (CT)       Hayworth         Pryce (NY)
Brown (PA)       Heitkamp        Rush
Boehmert         Hefley          Rutledge
Bonilla          Hensarling       Sanders (OH)
Boyer            Hice             Saragoza
Bono              Hinojosa        Schakowsky
Bosman           Hoechst         Scalise
Bradley (NV)     Hookstra         Sensenbrenner
Brady (TX)       Hulshof          Sessions
Brown (NC)       Hyde            Shelby
Brown-Waite      Issa            Sherrill
Burgess          Isett            Smith (TX)
Burton (IN)      Johnson (CT)   Smither
Byrnes           Johnson (IL)   Speaker
Caldwell         Johnson (NY)   (Schiff) (CA)
Camp             Johnson (OH)   Sengenberger
Cannon           Jordan         Sessions
Carter            Kaufman         Shadegg
Carter (PA)     Kerrey          Shaffer
Carper           Kildee           Shaw
Carter (KY)     King (CA)       Shelby
Carter (WI)     King (NY)       Sherrill
Carter (WY)     King (SC)       Shewsky
Cassel          King (TX)       Shimkus
Cubinson        King (Washington) Simpson
Cunningham      Kinzinger        Smucker
Davis (KY)       Koeppel         Skelton
Davis, Tom      Krol             Smith (MI)
Deal (GA)        Kuhl (NY)       Smith (MO)
DeLaTorre       Kubly           Snyder
DeLaet          LaHood           Solis
Diaz-Balart (FL) Layton          Sonny
Diaz-Balart, M.  Leach            Souder
Dicks            Lewis (CA)     Souder
Dobbsite        Lewis (KY)     Stearns
Drake            Lienhard         Sullivan
Duprey          Lindacon         Sweet
Duncan           Lindell         Tanner
Dhers            Lucas           Terry
Dhers (OR)       Lunder          Thomas
Dock          Lunger (PA)      Thornberry
Dodd            Lummus          Tschoepp
Donald           Manny           Taft
Donnelly         Mankin          Tiberi
Duncan           Marchant         Tilden
Duncan (WI)     Marcotte        Thailand
Duncan (WI)     Moore (KS)     Thiermann
Dye            Moore (TX)     Thompson (PA)
Egan            Morella          Totten
Emerson         Moran (KS)     Toomey
Epperson       Moran (MD)     Towne
English (PA)    Morris           Towns
Everett          Morris (MS)     Torres
Farr            Moseley         Towano
Fetterman       Mica            Tracey
Fitzpatrick (PA) Miller (CA)   Wamp
Foley            Miller (FL)    Wamp (RI)
Forbes           Miller (GA)     Warden
Forbes (MD)     Miller (KY)    Waring
Foster          Miller (OK)    Warrick
Franklin         Moore (MI)    Watson (FL)
Polver          Moran (KS)     Watson (MA)
Potts           Morris (MD)     Wayland
Powell          Morris (MA)     Weidenhamer
Prejean          Murphy          Weinberger
Prejean (LA)    Murray          Wharton
Preston         Musgrave        White
Price (TX)      Naberhaus       Whitehouse
Price (AZ)       Neubauer        Whitmer
Prelyinghagens  Neumark         Whittfield
Gallegly       Neumark (AK)    Wicker
Gallup          Northup         Wilkinson (NM)
Peters (NY)     Nussle          Williams
Peterson (MN)  Oberg            Wilson (CA)
Peterson (PA)  O'Malley         Wilson (GA)
Pettit           Olver           Wilson (NY)
Pew  Onofrio       Wilson (SC)
Plocher         Onoel           Wolf
Powell          Onosita         Young (AK)
Prejean (TX)    Orson           Young (FL)
The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and agree to the resolution, H. Res. 308, to which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 0, not voting 48, as follows:

[Roll No. 444]

The result of the vote was announced as follows:

YEAS—385

Abraham
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Aderholt
Akin
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Andrews
Baier
Baird
Ballenger
Becerra
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Berry
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Bishop (GA)
Boswell
Boucher
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Byrd
Cain
Cajero
Calderon
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Carson
Case
Chandler
Clapp
Clay
Clyburn
Coble
Cochrane
Cordell
Crowley
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Davis (FL)
Davis (IL)
Davis (NY)
Davis (TX)
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Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-202) on the resolution (H. Res. 392) waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-198) on the resolution (H. Res. 392) waiving points of order against the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-199) on the resolution (H. Res. 393) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-200) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-201) on the resolution (H. Res. 394) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. DREIER (during consideration of H.R. 3045), from the Committee on Rules, submitted a privileged report (Rept. No. 109-202) on the resolution (H. Res. 392) waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REAPPOINTMENT AS MEMBER TO NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

The SPEAKER pro tempore. Pursuant to section 306(d) of the Public Health Service Act (42 U.S.C. 242k), and the order of the House of January 4, 2005, the Chair announces the Speaker's reappointment of the following member on the part of the House to the National Committee on Vital and Health Statistics for a term of 4 years: Mr. Jeffrey S. Blair, Albuquerque, New Mexico

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 47. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest for certain non-Federal land in the Pecos National Historical Park in the State of New Mexico; to the Committee on Resources.

S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; to the Committee on Resources.

S. 54. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Resources.

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes; to the Committee on Resources.

S. 97. An act to provide for the sale of benitoite in Big Horn County, Wyoming; to the Committee on Resources.

S. 101. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation; to the Committee on Resources.

S.128. An act to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, and for other purposes; to the Committee on Resources.

S.136. An act, to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to designate certain boundaries of Redwood National Park, and for other purposes; to the Committee on Resources; in addition to the Committee on Education and the Workforce, to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S.152. An act to enhance ecosystem protection and the range of outdoor opportunities permitted by statute in the Middle Rio Grande valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes; to the Committee on Resources.

S.153. An act to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes; to the Committee on Resources.

S.156. An act to extend the deadline for commencement of a hydroelectric project in the State of Alaska; to the Committee on Resources.

S.178. An act to provide assistance to the State of New Mexico for the development of comprehensive State Water Plan, and for other purposes; to the Committee on Resources.

S.182. An act to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes; to the Committee on Resources.

S.203. An act to reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes; to the Committee on Resources.

S.205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; to the Committee on Resources.

S.207. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Resources.

S.212. An act to amend the Valles Caldera Protection Act to provide for the preservation of the Valles Caldera, and for other purposes; to the Committee on Resources.

S.214. An act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes; to the Committee on Resources.

S.223. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public lands; to the Committee on Resources; in addition to the Committee on Agriculture and for other purposes; to the Committee on Resources.

S.231. An act to clarify that certain real property in New Mexico associated with the Middle Rio Grande Project and for other purposes; to the Committee on Resources.

S.239. An act to clarify that parts of the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon.
and for other purposes; to the Committee on Resources.

S. 232. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes; to the Committee on Resources.

S. 243. An act to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Resources.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming; to the Committee on Energy and Natural Resources.

S. 252. An act to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University of Nevada at the request of the Gila River Indian Community College System of Nevada; to the Committee on Resources.

S. 253. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Resources.

S. 254. An act to provide for the protection of paleontological resources on Federal lands, and for other purposes, to the Committee on Resources; in addition to the Committee on Energy and Natural Resources, pursuant to 42 U.S.C. 4231(f).

S. 264. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii; to the Committee on Resources.

S. 276. An act to revise the boundary of the Wind River Indian Reservation in the State of South Dakota; to the Committee on Resources.

S. 279. An act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; to the Committee on Resources.

S. 285. An act to reauthorize the Children’s Hospitals' Health Insurance Program; to the Committee on Energy and Commerce.

S. 301. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Resources.

S. 442. An act to provide for the Secretary of Homeland Security to be included in the line of Presidential succession; to the Committee on the Judiciary.

S. 706. An act to convey all right, title, and interest of the United States in and to the land described in this Act to the Secretary of the Interior for the Prairie Island Indian Community in Minnesota; to the Committee on Transportation and Infrastructure.

S. 1400. An act to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian agricultural and tribal corporations; to the Committee on Resources.

S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform; to the Committee on Resources.

S. 1482. An act to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts; to the Committee on Resources.

S. 1483. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1972 to improve the definition of "Indian student count"; to the Committee on Education and the Workforce.

S. 1484. An act to amend the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990; to the Committee on Resources.

S. 1465. An act to amend the Act of August 9, 1955, to extend the authorization of certain leases; to the Committee on Resources.

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. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic River System.


H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation, for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

H.R. 3453. An act to provide an extension of highway, highway safety, motor carrier safety, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

ADJOURNMENT

Mr. WALDEN of Oregon. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes a.m.), the House adjourned until today, Thursday, July 28, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

S. 3306. A letter from the Chief, Regulatory Analysis & Development, APHIS, Department of Agriculture, transmitting the Department's final rule—Tuberculosis in Cattle and Bison; State and Zone Designations; Newheart Disease; and Governor's Orders; to the Committee on Agri
ture, Nutrition and Forestry.

S. 3307. A letter from the Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

S. 3308. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

S. 3309. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

S. 3310. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Harry D. Raduege, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

S. 3311. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Deposit Insurance Coverage: Accounts of Qualified Tuition Savings Programs Under Section 329 of the Internal Revenue Code (RIN: 3510-AH17); received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

S. 3312. A letter from the Assistant to the President, Federal Reserve Board, transmitting the System’s final rule—Truth in Savings (Regulation DD; Docket No. R-1197) received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

S. 3313. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission’s final rule—Amendment to the In

S. 3314. A letter from the Attorney, Office of Legislative and Regulatory Law, Office of the Department of Energy, transmitting the Depart
ment’s final rule—Policy on Research Misconduct (RIN: 1001-AAA9) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

S. 3315. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department’s final rule—Amendment to the Interim Final Rule for Mental Health Parity (CMS-4994-P3) (RIN: 0938-AN22) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

S. 3316. A letter from the Assistant Secretary, DOD, Securities and Exchange Commission, transmitting the Commission’s final rule—Rulemaking for EDGAR System (Release Nos. 33-8590; 34-52052; 35-28002; 39-2437; 80-38080; RIN: 3235-AH23) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

S. 3317. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Depart
ment of the Army’s Proposed Letter(s) of Offer and Acceptance (LOA) to Colombia for the sale of 210 M1A1 Abrams Main Battle Tanks (RIN: 0990-0240) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce, Science, and Transportation.


a proposed license for the export of major defense articles or defense services sold commercially to Russia and Kazakhstan (Transmittal No. DDTC 026-65), pursuant to 22 U.S.C. 277(c); to the Committee on International Relations.

3319. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of a proposed license for the export of major defense articles or defense services sold commercially to Luxembourg (Transmittal No. DDTC 011-65), pursuant to 22 U.S.C. 277(c); to the Committee on International Relations.

3320. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of D.C. Act 16-136, “Closing of Patricia Harris Drive, N.E., in Square 4325, S.O. 03-15, 2005” (RIN: 1513-PR34) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


3326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-129, “Qualified Zone Academy Bond Project Forward Commitment Act of 2005,” pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.


3329. A letter from the Chairman, Council of the District of Columbia, transmitting the Department’s final rule—Examination of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability (Rev. Proc.) received April 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


Service, transmitting the Service’s final rule—Withholding Exemptions (TD 9196) (RIN: 1545–BE21) received April 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3354. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service’s final rule—Domestic Abusive Trust Schemes (UIC No. 666–27-00) received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


3356. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service’s final rule—Revised Medical Criteria for Evaluating Genito-Urinary Impairments (Regulation No. 4) (RIN: 1545–AF30) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3357. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration’s final rule—Extension of the Expiration Date for Several Body System Listings (Regulation No. 4) (RIN: 0960–AF27) received June 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3358. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration’s final rule—Revised Medical Criteria for Evaluating Genitourinary Impairments (Regulation No. 4) (RIN: 0960–AF30) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3359. A letter from the Secretary, Department of Agriculture, transmitting a legislative proposal entitled, “To provide for greater efficiency in the management and realignment of activities on Federal lands and certain other lands in the National Forest System”; jointly to the Committees on Agriculture and Resources.


3361. A letter from the Acting General Counsel, Department of Commerce, transmitting the Department of Commerce’s 2005 International Trade Administration IRM Final Rule (RIN: 0960–AD30) received November 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


3363. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service’s final rule—XXVII of the Public Health Service Act to extend federal establishment and operation of State high risk health insurance pools; with an amendment (Rept. 109–191). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3205. A bill to amend title XXVII of the Public Health Service Act to extend federal establishment and operation of State high risk health insurance pools; with an amendment (Rept. 109–191). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 208. Resolution recognizing the 50th anniversary of Rosa Louise Parks’ refusal to give up her seat on the bus and the subsequent desegregation of American society (Rept. 109–193). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 336. Resolution requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in “National Night Out”, which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security (Rept. 109–194). Referred to the House Calendar.


Mr. BARTON: Committee on Energy and Commerce. H.R. 3205. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; with an amendment (Rept. 109–197). Referred to the Committee of the Whole House on the State of the Union.

Mr. BISHOP: Committee on the Judiciary. House Resolution 378. Resolution recognizing the 50th anniversary of the Voting Rights Act of 1965 and encouraging all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans (Rept. 109–196). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 336. Resolution recognizing and honoring the 50th anniversary of Rosa Louise Parks’ refusal to give up her seat on the bus and the consequent desegregation of American society (Rept. 109–193). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 336. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2965) making appropriations for the Legislative Branch for fiscal year beginning September 30, 2006, and for other purposes (Rept. 109–202). Referred to the House Calendar.

DISCHARGE OF COMMITTEE
Pursuant to clause 2 of rule XII the Committees on Education and the Workforce, Energy and Commerce and Transportation and Infrastructure discharged from further consideration. House Resolution 378 referred to the House Calendar and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS
Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MALONEY (for herself, Mr. SANDERS, Mr. FRANK of Massachusetts, and Ms. LEFurgy): H.R. 3489. A bill to extend the protections of the Truth in Lending Act to overdraft protection programs and services provided by depository institutions, to require customer consent before a depository institution may initiate overdraft protection services and fees, to enhance the information made available to consumers relating to overdraft protection services and fees, to prohibit systematic manipulation in the posting of checks and other debits to a depository account for the purpose of generating overdraft protection fees, and for other purposes; to the Committee on Financial Services.

By Mr. KENNEDY of Rhode Island (for himself, Mr. PAYNE, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. McKIM, Mr. SCHAKOWSKY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SABO, Mr. DAVIS of Illinois, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, Ms. WATSON, Mr. LYNCH, and Ms. KILPATRICK of Pennsylvania): H.R. 3450. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee of the Whole House on the State of the Union.

By Ms. HART: H.R. 3451. A bill to amend the Internal Revenue Code of 1986 to provide for the use of re-deployment bonds for environmental reclamation; to the Committee on Ways and Means.

By Mr. TURNER (for himself, Mr. OXLEY, Mr. NEY, Mr. HOBSON, Mr. BROWN of Ohio, Mr. PETE WILSON of California, and Mr. KUCINICH, and Mr. BROWN of Ohio): H.R. 3452. A bill to amend the Internal Revenue Code of 1986 to treat regional income tax collection agencies as States for purposes of confidentiality and disclosure requirements relating to tax returns and return identification; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska: H.R. 3453. A bill to provide an extension of highway, highway safety, and transit, and other programs funded out of the Highway Trust Fund pending enactment of a law authorizing the Transportation and Infrastructure Act of 2006; to the Committee on Transportation and Infrastructure, and in addition to the Committees on...
Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS: H.R. 3454. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of organ donations, and individuals who became disabled as children, without regard to income or assets; to the Committee on Energy and Commerce.

H.R. 3455. A bill to amend the Real Estate Settlement Procedures Act of 1974 to provide for homeowner foreclosure damage claims; to the Committee on Financial Services.

By Mr. ANDREWS: H.R. 3456. A bill to amend title 28, United States Code, to provide for individuals serving as Federal jurors to continue to receive their normal average wage or salary during such service; to the Committee on the Judiciary.

By Mr. ANDREWS: H.R. 3457. A bill to amend title 38, United States Code, for World War II veterans to be in the same priority category for health care services from the Department of Veterans Affairs as World War I veterans; to the Committee on Veterans' Affairs.

By Mr. ANDREWS: H.R. 3458. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations; to the Committee on Ways and Means.

By Mr. ANDREWS: H.R. 3459. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies; to the Committee on Ways and Means.

By Mr. ANDREWS: H.R. 3460. A bill to amend the Internal Revenue Code of 1986 to allow married individuals who are legally separated and living apart from each other during any calendar year to compute their gross income from the income of United States savings bonds used to pay higher education tuition and fees; to the Committee on Ways and Means.

By Mr. ANDREWS: H.R. 3461. A bill to amend the Internal Revenue Code of 1986 to exempt from income tax the gain from the sale of a business closely held by an individual who has attained age 62, and for other purposes; to the Committee on Ways and Means.

By Mr. BISHOP of Utah: H.R. 3462. A bill to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to the State of Utah; to the Committee on Resources.

By Mr. BISHOP of Utah: H.R. 3463. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five percent of the proceeds of the sale of public land lying within said States as provided by the Desert Public Lands Acts; to the Committee on Resources.

By Mr. BISHOP of Utah: H.R. 3464. A bill to authorize the Secretary of the Interior to make payments to Western States for education improvement; to the Committee on Resources, and in addition to the Committee on Agriculture and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT: H.R. 3465. A bill to amend title 49, United States Code, to increase penalties for pilots who violate flight restrictions established for the National capital region airspace; to the Committee on Transportation and Infrastructure.

By Mr. BOSWELL: H.R. 3466. A bill to authorize the Speaker of the House of Representatives and the President Pro Tempore of the Senate to make appropriate arrangements for the presentation, on behalf of Congress, of gold medals to the Meskwaki Code Talkers in recognition of their contributions to the Nation during World War II, and for other purposes: to the Committee on Financial Services.

By Mr. CASE: H.R. 3467. A bill to amend the adjusted gross income limitation on participation in conservation programs administered by the Department of Agriculture to exempt producers operating in the State of Hawaii; to the Committee on Agriculture.

By Mr. CASE: H.R. 3468. A bill to recognize the unique ecosystems of the Hawaiian islands and the threat to these ecosystems posed by non-native plants, animals, and plant and animal diseases, to require the Secretary of Agriculture and the Secretary of the Interior to expand Federal efforts to prevent the introduction in Hawaii of non-native plants, animals, and plant and animal diseases, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE: H.R. 3469. A bill to prohibit the import, export, and take of certain coral reef species, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Resources, and in the jurisdiction of the committee concerned.

By Mr. DAVIS of Illinois: H.R. 3470. A bill to strengthen the accountability of the child welfare system in its mandate to ensure the safety, permanence, and well-being of children who are victims of abuse and neglect; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois: H.R. 3471. A bill to help children make the transition from foster care to self-sufficiency by addressing weaknesses in the implementation of the John H. Chafee Foster Care Independence Program; to the Committee on Ways and Means.

By Mr. EMANUEL: H.R. 3472. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales; to the Committee on Armed Services, and in addition to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania: H.R. 3473. A bill to amend the Occupational Safety and Health Act of 1970 to apply to Federal and State government employers; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, 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. GUTIERREZ: H.R. 3474. A bill to amend title 38, United States Code, to repeal the provision of law requiring termination of the Advisory Committee on Minority Veterans as of December 31, 2009; to the Committee on Veterans’ Affairs.

By Mr. HONDA: H.R. 3475. A bill to require the prompt review by the Secretary of the Interior of Petition No. 120 for Federal recognition of the Amah Mutsun of Mission San Juan Bautista as an Indian tribe, and for other purposes; to the Committee on Resources.

By Mr. HOYER: H.R. 3476. A bill to grant a Federal charter to Korean War Veterans Association, Incorporation, to the Committee on the Judiciary.

By Mr. JINDAL: H.R. 3477. A bill to direct the Secretary of Homeland Security to develop a plan for establishing consolidated and co-located regional offices for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security.

By Mr. JONES of North Carolina: H.R. 3478. A bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts; to the Committee on Ways and Means.

By Mr. MATHESON: H.R. 3479. A bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and pornography-related crimes against children; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, the Judiciary, Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD: H.R. 3480. A bill to direct the President to withdraw from the Dominican Republic-Central America-United States Free Trade Agreement; to the Committee on Ways and Means.

By Mr. REYNOLDS (for himself, Mr. HIGGINS, and Ms. SLAUGHTER): H.R. 3481. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the Special Exposure Cohort under the energy employees occupational illness compensation program; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROYBAL-ALLARD: H.R. 3482. A bill to amend the Fair Labor Standards Act of 1938 to increase penalties for violations of child labor laws, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas: H.R. 3483. A bill to suspend temporarily the duty on certain footwear; to the Committee on Ways and Means.
H. R. 3481. A bill to suspend temporarily the duty on certain leather footwear; to the Committee on Ways and Means. 

By Mr. SANDERS (for himself, Mr. FRANK of Massachusetts, Mrs. McaFFIcARY, and Mr. LEZI): 

H. R. 3492. A bill to amend the Truth in Lending Act so as to authorize the collection of fees for the examination of fair practices of credit card issuers, and for other purposes; to the Committee on Financial Services. 

By Mr. SPRATT (for himself, Mr. BROWN of South Carolina, Mr. INOliS of South Carolina, Mr. BARRETT of South Carolina, Mr. WILSON of South Carolina, and Mr. CLYBURN): 

H. R. 3493. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the site of the Battle of Camden in South Carolina, as a unit of the National Park System, and for other purposes; to the Committee on Resources. 

By Mr. ANDREWS: 

H. Con. Res. 219. Concurrent resolution expressing the sense of Congress regarding enhanced security for the 2008 Beijing Olympic Games in Taiwan; to the Committee on International Relations. 

By Mr. DOOLITTLE: 

H. Con. Res. 220. Concurrent resolution expressing the sense of the Congress relating to approval of the Comprehensive Test Ban Treaty Implementation Treaty; to the Committee on Foreign Relations, the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. 

By Mr. GOODE (for himself, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. ROHRACHER, Mr. TANCREDO, and Mr. CULBERSON): 

H. Con. Res. 221. Concurrent resolution expressing the sense of the Congress that the President should immediately and unequivocally declare full and complete commitment of existing immigration laws in order to reduce the threat of a terrorist attack and to reduce the mass influx of illegal aliens into the United States; to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, and International Relations, 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. LOWERY: 

H. Con. Res. 222. Concurrent resolution supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; to the Committee on Government Reform. 

By Mrs. LOWERY: 

H. Con. Res. 223. Concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of Helen Hayes; to the Committee on Government Reform. 

By Mr. HASTINGS of Washington: 

H. Res. 391. A resolution that there is hereby established a Task Force on Ocean Policy; to the Committee on Armed Services. 

By Mrs. DAVIS of California (for herself and Mr. FORBES): 

H. Res. 397. A resolution congratulating the Navy basketball team for winning the 2005 Armed Forces Basketball Championship; to the Committee on Armed Services.
United States to amend the federal Older Americans Act to include older family caregivers of adult children with developmental disabilities as an eligible population to be served by the Federal Adult Day Services Support Program; to the Committee on Education and the Workforce.

83. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolution memorializing the Congress of the United States to amend the Social Security Act by deleting May 14, 1993, as the deadline for approval by states of long-term care partnership plans; to the Committee on Energy and Commerce.

84. Also, a memorial of the House of Representatives of the State of Nebraska, relative to Legislative support to the Interior to provide full funding for the Clark County Shooting Park; to the Committee on Appropriations and Oversight; to the Committee on Ways and Means.

85. Also, a memorial of the Legislature of the State of Illinois, relative to the recommendations of the final report of the National Conference of State Legislatures’ Task Force on No Child Left Behind; to the Committee on Education and the Workforce.

86. Also, a memorial of the Senate of the State of Ohio, relative to Senate Concurrent Resolution No. 4 supporting federal funding to combat the disease research; to the Committee on Energy and Commerce.

87. Also, a memorial of the House of Representatives of the State of Arizona, relative to House Resolution No. 30 memorializing the Congress of the United States to enact legislation allowing the Department of Commerce to help shield children by establishing and requiring the XXX domain name for adult-only web sites; to the Committee on Energy and Commerce.

88. Also, a memorial of the House of Representatives of the State of Nebraska, relative to House Resolution No. 21 urging the Congress of the United States to enact the Clean Skies Act of 2005; to the Committee on Energy and Commerce.

89. Also, a memorial of the House of Representatives of the State of Arizona, relative to Senate Concurrent Resolution No. 204 memorializing the Congress of the United States to enact legislation that would fully fund the Department of Veterans Affairs health care system; to the Committee on Veterans’ Affairs.

90. Also, a memorial of the Senate of the State of Nebraska, relative to Senate Concurrent Resolution No. 249 urging Congress to enact legislation conferring veterans’ benefits on Filipino World War II veterans; to the Committee on Veterans’ Affairs.

91. Also, a memorial of the House of Representatives of the State of Nebraska, relative to House Resolution No. 38 expressing support for Amtrak; to the Committee on Transportation and Infrastructure.

92. Also, a memorial of the Senate of the State of Maine, relative to Joint Resolution memorializing the President and the Congress of the United States not to require a public access to the West Pearl River Navigational Canal located in the parishes of St. Tammany and Washington and to extend the date scheduled for closure until such time that a determination can be made; to the Committee on Transportation and Infrastructure.

93. Also, a memorial of the House of Representatives of the State of Nebraska, relative to Joint Resolution No. 117 memorializing the Congress of the United States to take such actions as are necessary to amend the United States Code to authorize state governors to proclaim that the United States flag shall be flown at half-staff upon the death of a member of the United States Armed Forces for 30 days after the death of a state who died on active duty; to the Committee on the Judiciary.

94. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 66 memorializing the Congress of the United States to permit public access the West Pearl River Navigational Canal located in the parishes of St. Tammany and Washington and to extend the date scheduled for closure until such time that a determination can be made; to the Committee on Transportation and Infrastructure.

95. Also, a memorial of the House of Representatives of the State of Nebraska, relative to Senate Concurrent Resolution No. 12 memorializing the Congress of the United States to provide the necessary funding to restore Calcasieu Slough National Wildlife Refuge in southern Louisiana in order that the United States may continue as a world leader in ecological science, environmental education, and responsible tourism; to the Committee on the Judiciary.

96. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 11 urging the Congress of the United States to take all actions necessary to diligently and forcefully pressure the Government of China to amend and implement its 1993 Repugnancy Declaration in order to stop the killing of innocent Chinese citizens; to the Committee on the Judiciary.

97. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 10 urging the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

98. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 9 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

99. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 8 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

100. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 7 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

101. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 6 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

102. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 5 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

103. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 4 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

104. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 3 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

105. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 2 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

106. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 1 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

107. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 10 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

108. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 9 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

109. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 8 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

110. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 7 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

111. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 6 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

112. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 5 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

113. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 4 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.

114. Also, a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Resolution No. 3 memorializing the Congress of the United States to enact legislation that would require the President of the United States to order the Immigration and Naturalization Service to use its full authority to deport any illegals who are found to be in possession of sensitive government documents; to the Committee on the Judiciary.
PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred to the Committee on Ways and Means:

By Mr. FRANK of Massachusetts:
H.R. 3494. A bill for the relief of Veronica Mitina Haskins; to the Committee on the Judiciary.

By Mr. NORWOOD:
H.R. 3496. A bill for the relief of Thomas W. Sikes, doing business as Wolfing Trade, Inc., doing business as Containerhouse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. PICKERING, Mr. KIRK, Mr. MACK, Miss McMorris, and Mr. BRADLEY of New Hampshire.

H.R. 14: Mr. CONAWAY.

H.R. 268: Mr. BETCHER of Utah.

H.R. 588: Mr. BRIGHT of Indiana.

H.R. 602: Mr. HIGGINS.

H.R. 615: Mr. LANTOS and Mr. GRIJALVA.
Mr. King of Iowa, Mr. Simpson, Mr. Inglis of South Carolina, Mr. Fortenberry, Mr. Jindal, Mrs. Blackburn, Mr. Wicker, Mr. Price of Georgia, and Mr. Wamp.

H. Con. Res. 197: Mr. Crowley.
H. Con. Res. 210: Mr. Jindal, Mr. King of New York, Ms. Woolsey, Mr. Gene Green of Texas, Ms. Ros-Lehtinen, Ms. Harris, Ms. Solis, Mr. Nugent, Mr. McCaul of Texas, Mr. Bonner, and Mr. Payne.

H. Res. 132: Mr. Fattah.
H. Res. 223: Mr. Delay.
H. Res. 246: Mr. Levin.
H. Res. 261: Mr. Reyes, Mr. Cole, and Mr. Sessions.
H. Res. 286: Mr. Wexler.
H. Res. 325: Mr. Sweeney, Mr. Lynch, Mr. Payne, Ms. DeLauro, Ms. Linda T. Sanchez of California, and Mr. Schwarz of Michigan.
H. Res. 333: Mr. Sanders.
H. Res. 353: Mr. Moran of Virginia.
H. Res. 358: Mr. Holden.
H. Res. 360: Ms. Ros-Lehtinen and Mr. Souder.
H. Res. 367: Mr. Waxman, Mrs. Maloney, and Mr. Simmons.
H. Res. 371: Mr. Miller of Florida.
H. Res. 375: Mr. Wu, Mr. Brown of Ohio, Mr. Towns, and Mr. Crowley.
H. Res. 381: Mr. Boren and Mr. Waxman.
H. Res. 383: Mrs. Biggert and Ms. Pryce of Ohio.
H. Res. 384: Mr. Merian.
H. Res. 388: Mr. Meek of Florida.

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. 2567: Mr. George Miller of California.
H.R. 3304: Mr. Gerlach.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk’s desk and referred as follows:
23. The SPEAKER presented a petition of the Miami-Dade County Board of County Commissioners, Florida, relative to Resolution No. R-764-05, urging the Congress of the United States to support $385 Million in funding for Hopwa Program for FY 2006; to the Committee on Financial Services.
24. Also, a petition of the Marinette County Board of Supervisors, Wisconsin, relative to Resolution No. 191, petitioning the Congress of the United States to restore the PILT funding level to no less than the FY 2005 plus the additional amount of the national increase in inflation; to the Committee on Resources.
25. Also, a petition of the City Commission of the City of Weston, Florida, relative to Resolution No. 2005-33, urging the Congress of the United States to revise the policies of the Federal Emergency Management Agency; to the Committee on Transportation and Infrastructure.
26. Also, a petition of the Board of Chosen Freeholders, County of Passaic, New Jersey, relative to Resolution No. R-05-229, urging the Congress of the United States to support the Passaic River Restoration Initiative; to the Committee on Transportation and Infrastructure.
27. Also, a petition of Mr. James N. Thivierge, a citizen of Amesbury, Massachusetts, relative to the Social Security Trust Fund and the rising cost of Medicare; jointly to the Committees on Ways and Means and Energy and Commerce.
Mr. FRIST. Mr. President, yesterday, as everyone knows, we invoked cloture on the motion to proceed to this underlying legislation with a vote of 66 to 32. Although we are now proceeding to the substance of the bill, it has been made clear that the bill will be subjected to a filibuster. While we respect a Senator’s right to debate this liability, it is apparent that a cloture vote will be needed to ultimately bring this very bipartisan bill to a final vote. For that reason, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

Mr. FRIST. Mr. President, yesterday, as everyone knows, we invoked cloture on the motion to proceed to this underlying legislation with a vote of 66 to 32. Although we are now proceeding to the substance of the bill, it has been made clear that the bill will be subjected to a filibuster. While we respect a Senator’s right to debate this liability, it is apparent that a cloture vote will be needed to ultimately bring this very bipartisan bill to a final vote. For that reason, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close, debate on the motion to proceed to Calendar No. 15, S. 397: A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

The PRESIDING OFFICER. The Senate from Tennessee (Mr. Frist) proposes an amendment numbered 1605.

Mr. Frist. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The legislative clerk read as follows:

AMENDMENT NO. 1605

Having said that, I now send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Frist), for Mr. Craig, proposes an amendment numbered 1605.

Mr. Frist. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the exceptions)

On page 10, line 5, strike “or” and all that follows through line 16 and insert the following:

(v) an action for death, physical injuries or property damage; or

(vi) an action or proceeding commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act)

At the end, insert the following:

Mr. Frist. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

AMENDMENT NO. 1606 TO AMENDMENT NO. 1605

The Senator from Tennessee (Mr. Frist) proposes an amendment numbered 1606 to amendment No. 1605.

Mr. Frist. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. Kennedy. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The legislative clerk read as follows:

(Purpose: To make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act)

At the end, insert the following:

The actions the leader has just taken file cloture would allow the cloture motion to ripen by as early as 1 a.m. Friday morning. Amendments have just been filed by the leader, and we will begin the process of debate on this important legislation.

With that in mind, if this bill and this debate seem familiar to any of us,

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1606 TO AMENDMENT NO. 1605

The Senator from Tennessee (Mr. Frist) proposes an amendment numbered 1606 to amendment No. 1605.

Mr. Frist. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. Kennedy. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the amendment.

The legislative clerk read as follows:

The amendment is as follows:

(Purpose: To make clear that the bill does not apply to actions commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986)

At the end, insert the following:

The actions the leader has just taken file cloture would allow the cloture motion to ripen by as early as 1 a.m. Friday morning. Amendments have just been filed by the leader, and we will begin the process of debate on this important legislation.

With that in mind, if this bill and this debate seem familiar to any of us,
it should, because the Senate debated a very similar measure a little over a year ago. At that time, we had a full debate over a number of days. It is worth noting that the Senate defeated every amendment addressing the actual substance of the bill. However, opponents of it, and, for that matter, a number of unrelated poison-pill amendments that ultimately caused the bill to fail.

The need for this legislation is very real. As I outlined yesterday and today, some of us have expressed what we believe is the urgency of this legislation. The Protection of Lawful Commerce in Arms Act would stop junk lawsuits that attempt to pin the blame and the cost of criminal behavior on businesspeople who are following the law and selling a legal product. In fact, the one consumer product where access is protected by nothing less than our Constitution itself is our firearms, and that is exactly what is at stake today: the rights of American manufacturers, American citizens, to have access to a robust and productive marketplace in the effective manufacturing and sale of firearms.

This bill responds to a series of lawsuits brought by municipality, school boards and others attempting to shift the financial burden for criminal violence onto the law-abiding business community. These suits are based on a variety of legal theories. We heard some of them expressed by opposition to the back door of the Congress by going in unconstitutional rights, have rejected this. Now the anti-gun community attempts once again to come through the back door of the Congress by going in through the front door of the courts. It simply has not worked, and it will not work.

But there is another motive in mind. By definition, the legislation we are considering today aims to stop lawsuits that are trying to force the gun industry to pay for the crimes of people over whom they have no control.

Let me stop a minute and make sure everyone understands the limited nature of the bill. Some will argue it differently, but I would argue those who argue it differently are trying to expand the definition of what we believe to be very clear within the legislation. What this bill does not do is as important as what it does do. It is not a national gun amnesty bill. I think I have already heard that said since the clock tolled 12 noon. This bill does not create a legal shield for anybody who manufactures or sells a firearm. It does not protect members of the gun industry from every lawsuit or legal action that could be filed against them. It does not prevent them from being sued for their own misconduct.

This bill only stops one extremely narrow category of lawsuits, lawsuits that attempt to force the gun industry to pay for the crimes of third parties over whom they have no control. We have tried to make that limitation as clear as we possibly can and in several ways. For instance, section 2(b) of the bill says its No. 1 purpose is to prohibit any suit against manufacturers, distributors, dealers and importers of firearms or ammunition products and their trade associations for the harm solely caused by the criminal or unlawful use or misuse of firearms products or ammunition products by others when the product functions as designed and intended.

We have also tried to make the bill’s narrow purpose clear by defining the kind of lawsuit that is prohibited. Section 5 defines the one and only kind of action prohibited by this bill as follows:

[A] . . . civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

We have also tried to make the narrow scope of the bill clear by listing specific kinds of lawsuits that are not prohibited. Section 5 says they include actions for harm resulting from defects
in the firearm itself when used as intended—in other words, a faulty product—that is, product liability suits; actions based on negligence or negligent entrustment; or breach of contract.

Furthermore, if someone has been convicted of transferring a firearm knowing that the gun will be used in the commission of a crime of violence or drug trafficking, it is no defense that the individual committed the illegal acts with the knowledge that the firearm was being transferred from a convicted felon. If someone has violated the law, they are in violation of the law and it does not protect them. This is not a shield to do just that.

What have I listed for the convenience of the populace? Is all spelled out in title V of the bill. For those who question it, read it. If you don’t understand it, get your lawyer and read it again because we worked overtime to make this as clear as it possibly can be made. Again, this is a rundown of the universe of lawsuits against members of the firearms industry that would not be stopped by this narrowly targeted bill.

What all these nonprohibited lawsuits have in common is that they involve actual misconduct or wrongful actions of some sort by a gun manufacturer, a seller or a trade association. Whether you support or oppose the bill, I think you can all agree that individual companies should be shielded from the legal repercussions of their own lawless acts. The Protection of Lawful Commerce in Arms Act expressly does not provide such a shield.

If I am going to repeat this because some opponents continue to mischaracterize the bill. My guess is, in the closing arguments on Friday of this week, that mischaracterization will continue. This is not a gun industry immunity bill. It prohibits one company from shielding another company from the blame of a third party’s criminal acts or misdeeds on the manufacturer or the seller of the firearm used in that crime.

Even though this is a narrowly focused bill, it is an extremely important bill. The fact that we are addressing today would reverse a longstanding legal principle in this country, and that principle is that manufacturers of products are not responsible for the criminal misuse of those products. You don’t have to be a lawyer to know that run-away juries and activist judges can turn common sense on its head in a large number of cases, setting precedents that have dramatic repercussions and are potentially devastating in their results.

If a gun manufacturer is held liable for the harm done by a criminal who misuses a gun, then there is nothing to stop the manufacturers of any product used in crimes from having to bear the costs resulting from the actions of those criminals. So as I mentioned earlier, automobile manufacturers will have to take the blame for the death of a bystander who gets in the way of the drunk driver. The local hardware store will have to be held responsible for a kitchen knife it sold, if later that knife is used in the commission of a rape.

The baseball team whose bat was used to bludgeon a victim will have to pay the cost of the crime. The list goes on and on.

Did that sound silly? Tragically enough, some lawyers and some activist judges and some runaway juries have taken us in those directions in the past. That is why we constantly, in the Congress, talk about tort reform, trying to narrow it, trying to make it more clear—still recognizing that law-abiding citizens have their rights and should not in any way be jeopardized in the legal sense from their constitutional right to go to court. At the same time, I don’t think any of us believed that manufacturers of America would be gamed the way it has been gamed or that we would see the myriad of junk lawsuits that are being filed today and the venue shopping that continues to go on.

It is not just unfair to hold law-abiding businesses and workers responsible for criminal misconduct with the products they have made and sell, but this should not bring market-place. Hold onto your wallets, America, because those businesses will have to pass those costs directly on to the consumer if they plan to stay in business. Worse, some of those businesses will not be able to pass on those costs and some will continue to compete for one of them, this will mean layoffs, and ultimate bankruptcies, and the closure of the manufacturer’s doors.

We have already seen this in some of the firearm industry. In fact, these lawsuits have the potential to bankrupt the gun industry, even if they are not successful.

How could that be? The sheer cost of litigation, the repetitive filing of lawsuits, the need to defend those lawsuits litigation expenses of millions of dollars. It is important to keep in mind that the deep pocket of the gun industry is not all that deep. In hearings before the House of Representatives, experts testified that the sales of the firearm industry would not be equal to those of a single Fortune 500 company.

Why would I say that? People think this is a monolithic, large industry. It is not. It is a lot of small businesses, small industry manufacturers. In other words, all of them combined in America today would not equal one Fortune 500 company.

As of this year, it was estimated—and we can only estimate because the cost of litigation is confidential business information—that these baseless lawsuits have cost the firearms industry more than $250 million. Half of them have already been thrown out of court. Furthermore, don’t think these costs cannot be passed on to their insurers because in nearly every case insurance carriers have denied coverage.

The impact on innocent workers and communities is not the only potential repercussion of these lawsuits. If U.S. firearms manufacturers close their doors, where will our military and our peace officers go to obtain their guns? As my colleagues know, the United States of America is the only major world power that does not have a government-run firearms factory. This is a little known fact but a reality. Yet last year we purchased more than 200,000 small arms for our soldiers, sailors, airmen, and marines. The very same companies that supply our troops in the war on terrorism, both abroad and here at home, are the targets of these reckless lawsuits that could force them to close their doors.

Some would say: Oh, gee, we buy some of our arms already from foreign countries. Yes, we do. Does that mean that we should buy all of them? That we should be dependent on foreign
countries for the supply of firearms to our military? Surely we do not want foreign suppliers to control our national defense and community law enforcement—not to mention the ability of individual American citizens to exercise their second amendment—protected rights to use firearms for self-defense, recreation or other lawful purposes.

For all of those reasons, more than 30 States have laws on the books offering some protection for the gun industry from the extraordinary threats. Support has already grown in Congress to take action at the Federal level. The House has passed this measure several times. The Senate is now attempting to do so.

This would not be the first time Congress acted to prevent a threat on an industry. Some would wring their hands and say: Oh, dare not, dare not change the Federal law; dare not, in some way offer some protection. But let me say this is not the first time, and my guess is, with the courts and the trial bar where it is, it will not be the last.

For example, there are a number of Members in this Chamber who were serving in 1979 when the General Aviation Revitalization Act was passed barring product liability suits against manufacturers of planes more than 18 years ago. Just a few years ago in the Homeland Security Act, Congress placed limits on the liability of a half dozen industries, including the manufacturers of smallpox vaccine and the sellers of antiterrorism technology.

These are only a couple of examples of a significant list of Federal tort reform measures that have been enacted over the years when Congress perceived a need to protect a specific sector of our economy or our defense interests from the burdensome, unfair and, as I believe, frivolous litigation of the kind we saw today.

It is high time we act to stop this threat to our courts, our communities, our economy, and, yes, to our defense.

I have heard some Senators talking about loading up this bill with political amendments that have nothing whatsoever to do with the legislation. Let me say right here and now, these are killer amendments. Many of them know that. That is why they are trying to place them.

I am asking my colleagues to support the underlying legislation. It is well written, it is thoroughly vetted with all of the interested parties. I ask my colleagues to look at it as they have already looked at it—in a very strong, bipartisan way. Here now in the Senate a supermajority, Democrats and Republicans alike, supports this legislation. I hope they would resist the kinds of amendments that are obviously intended to drag this bill down once again. Some attempted it last year, and failed in doing so. I hope those who have signed on as co-sponsors are sincere in their support of the bill, as I believe they are, and they will allow us to move it through the process over the next several days in a clean and effective way.

Our courts are supposed to be a forum to redress wrongs, not enact political agendas. How many times has the anti-gun community been rejected by the people through the voice of their Senator or through the voice of their Congress men and women? Time and time again. And yet because of their political alignment and their philosophical bent, they stay at the doorsteps of Congress. This is profoundly what we have described it. And believe it to be a constitutional right of an American citizen to own a firearm. Well, because they have not been successful at the doorsteps of Congress, they have turned to the doors of the courtroom. Lawsuits are being filed. Lawsuits are being rejected. Thousands upon thousands of dollars are used in legal fees to prepare the arguments. New and inventive ways are approaching. Let's try this angle, let's try that angle. Surely we can get to the deep pocket.

I am also amazed at those who would not suggest that American citizens are responsible for their own actions, and most importantly, those who use a gun in the commission of a crime get locked up. That is gun control in the right sense. That is gun control that a majority of the American people support and that the Congress has continually supported.

This legislation, as I have mentioned, is clear. It is well defined, and it is narrow by its action. We believe that is why a bipartisan majority now supports it and why it deserves to become the law of the land, so we don't have venue-seeking, politically minded efforts to ignore the criminal element in the zealot support or approach to gun control but to go after the law-abiding citizen who either manufactures the firearm or sells it under a Federal firearms license.

That is the essence of S. 397, and I hope as we work through this bill, the clarity of that issue comes forward.

With that, Mr. President, I yield the floor.

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment and send an amendment to the desk.

Mr. CRAIG. I object.

The PRESIDING OFFICER (Mr. THUNE). Objection is heard.

Mr. REED. Mr. President, I think the Senator from Idaho makes it very clear what seems to be going on now. I heard a few moments ago the majority leader's response to Senator Kennedy, saying there would be an opportunity to present amendments, to debate this bill. I would also note that prior to any other action, cloture was filed on this bill.

Mr. CRAIG. Will the Senator yield?

Mr. REED. I would be happy to yield.

Mr. CRAIG. Obviously, I have an amendment on the floor now, or I should say an amendment was filed by Leader Frist. Under appropriate consultation, it is very possible there are a variety of amendments that could come to the floor prior to the ripening of the cloture motion. To now immediately move to that without consultation with the floor leader, myself, is something I will object to, and the Senator understands that. So let us not be tactical here. Let us work and cooperate. I am very happy to look at any amendments.

Mr. REED. If I may reclaim my time—

Mr. CRAIG. The Senator might have, but with that, my objection still stands until full consultation is brought, full cooperation is sought. I thank you.

Mr. REED. Reclaiming my time, I thank the Senator.

This amendment has been shared with the majority. It has been reviewed by the majority. We are not attempting to surprise anyone with this amendment. It deals with child safety locks. In fact, it is an amendment that was offered to the bill last year and passed overwhelmingly. It is my intent to provide opportunity to discuss issues with respect to gun legislation and present them to the Senate.

Again, I would note when the majority leader requested unanimous consent to lay aside one of his amendments to offer another amendment, no one on my side objected because in fact we thought we were doing good faith, that we shared amendments if we had an opportunity to look at the amendments beforehand, that we could proceed in an orderly and reasonable fashion. But I am a bit shocked. This amendment has been with the majority for the last, I would suggest, 30 or 40 minutes. It is an amendment that was presented in substance before to the floor. So I am a little bit surprised about the Senator's reaction.

Mr. CRAIG. Will the Senator yield again?

Mr. REED. I would be happy to yield.

Mr. CRAIG. Last year this amendment was offered by Senator Boxer, modified by Senator Kehl, and passed the Senate. We are examining the amendment now. We have only had it for 30 minutes or less. The Senator is absolutely right. And the amendment is substantively the same, but there are some differences in it. We are analyzing to see what those differences might be.

So, you see, there was a basis for my objection—until we clearly understand it. I think the agreement the Senator made with the majority leader is not present in this amendment.
was speaking to was one based on the exact amendment of Senator Kozy of a year ago. So let us examine what those changes might be in the amendment and then there may be no objection on this side. But until that time I believe we have adequate time here to resolve the law, and my objection would have to stand.

Mr. REED. Reclaiming my time, again, I appreciate the Senator’s comments with respect to the amendment, but once again I think we provided you the opportunity to look at the amendment.

There are several issues here. The first issue is whether you think it would be appropriate to support and vote for it, which presumptively comes after debate. But the first issue is allowing us to offer the amendment. You might very well object to the substance of the amendment. You might very well urge our colleagues to reject it. I respect that. But the right to deny the amendment, you object to what the majority leader said in how we conduct this debate. I will make a few comments now in general and I hope perhaps during the course of my comments the review of the amendment would allow us to formally offer it.

Again, there have been some comments about these junk lawsuits. These comments might have some resonance in this Chamber, but I doubt if we were talking about an amendment of Conrad Johnson we would have the temerity to say the suit she filed on behalf of the family was a junk lawsuit. Or if you had a working man, someone sitting in his bus seat in the early morning having a cup of coffee and reading the paper—and when I read about that, it reminded me of what my father did every day as a school custodian. He would get up in the morning, read the paper, have a cup of coffee either at the school or someplace else, in the kitchen—and then suddenly his life was ended by snipers, leaving a wife and children. Then they find after the tragic incident the weapon was obtained by the snipers because, in my view, of the incontrovertible evidence of gross negligence, 230 or more weapons misplaced by the dealer, not realizing that a teenage boy walked into his gun shop and took a 3-foot assault weapon off the counter and walked out. That is negligence.

Oh, and by the way, because we were able to stop this legislation last year and because in that case the defendant recognized that if they went to a jury of 12 Americans sitting and deciding whether they were responsible in their actions, that second set

That is not a junk lawsuit. Is it a junk lawsuit when two police officers are called to a violent scene and find themselves in a crossfire, find themselves critically injured, brought to a hospital, given their last rites, and then it is discovered the weapon that harmed them was purchased by a straw purchaser? Or that an individual walked in with a female companion, pointed out the guns, bought 12 of them at one time for cash, had her buy them because he could not pass a weapons background check, jumped in a car, took off—in fact, so obviously that the dealer called the ATF and said I took these people to them guns, but watch out. Negligence.

Both those lawsuits would have been stopped by this legislation. Those are not frivolous suits. Those are examples of people being hurt, police officers, bus drivers and the like, that snipers, gun dealers and gun manufacturers.

There is this constant refrain, the law is clear, the law is clear, we can’t blame someone else for criminal activities, when in fact the law is quite clear on this point. I mentioned it before. What is the law of the United States? Well, in terms of tort law these laws are summarized, updated constantly in what is known as restatement. Basically it is a catalog of different positions, situations, everyone knows it.

Everyone coming to the floor, having passed a bar in one State of this country, knows the restatement basically says what is the settled law, the settled law with respect to criminal activities. I will read it again.

Section 484 of the Restatement Second of Torts:

If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act, even if accidentally, negligently, intentionally tortious, or criminal does not prevent the actor from being liable for harm caused thereby.

What does that mean? It means you have a duty to the public to take certain steps, and if you don’t take those steps, even if in the chain of causation there is a criminal act by another party, you are still liable—not for that criminal act, you are still liable because you failed to act.

What this bill does is—this great talk about responsibility—it says everyone is responsible except the gun industry. Automobile manufacturers are responsible. In fact, when we get in our vehicles and drive home tonight, we are all going to benefit because years ago under the laws of tort and negligence, automotive companies were forced to improve the safety of their vehicles for the protection of the public. Now the logic that, oh, they can’t be held liable because a criminal crashed the car, well, that is right; no one intends to crash an automobile, but if the design of the automobile is defective, if there are safety precautions that could be taken, those have to be adopted because they have a duty to the public to provide a safe product, to avoid obvious dangers.

This is a situation in which we have the obligation to take steps. So this notion about criminal intervening activities is not the law. That is not what the law of this country says. The idea that manufacturers are not subject to the common obligation or duty to provide safe products, even if they are not required by statute, that is not the law either.

There is also a deliberate attempt to confuse two very different principles. We have criminal laws, we have regulations, we have statutes that require certain behavior. They define a range of activities that are unreasonable, unreasonable behavior. What this bill says is, if you violate a law, one of those aspects of impermissible behavior, yes, maybe you can sue a gun manufacturer. But there is a whole other range of activities—accidents, unreasonable behavior that are not defined by law. They are not the criminal, but they do involve opportunities under civil litigation to go to court and say this person acted unreasonably. They did not technically violate a statute. They acted unreasonably.

This statute essentially says, by and large, you can show they violated a very narrowly drawn legislative enactment or statute—they failed to fill out a record, et cetera—yes, maybe you can go to court.

What about all the cases we have talked about, the cases of the straw purchaser where weapons were sold and, obviously, to the casual observer, in a very peculiar way. Why didn’t that fellow, I believe, in South Carolina, who is buying the pistols that eventually wounded officers Lamongello and McGuire, why didn’t he offer his name? He obviously was picking out the weapon. Why did they buy 12 at one time? There is no law against buying 12 weapons at one time. Isn’t it curious that would happen?

Again, we have a situation where this legislation has been carefully worked out to stop these lawsuits. Not the frivolous lawsuits, all lawsuits except under very narrow circumstances. And circumstances do not seem to apply to the cases that have been filed. The exceptions would not have kept alive a suit by Officers Lamongello and McGuire or by the families of the victims of the Washington, DC, snipers or in the situation of Danny Guzman and Kahr Arms. That is more than coincidental. It is very deliberate.

Again, as I mentioned before, this legislation can’t be the panacea for the gun industry, the one touted by the gun industry, the one touted by the gun dealers and gun manufacturers. Of people being hurt, police officers, bus drivers and the like, that snipers, leaving a wife and children. Then they find after the tragic incident the weapon was obtained by the snipers because, in my view, of the incontrovertible evidence of gross negligence, 230 or more weapons misplaced by the dealer, not realizing that a teenage boy walked into his gun shop and took a 3-foot assault weapon off the counter and walked out. That is negligence.

Oh, and by the way, because we were able to stop this legislation last year and because in that case the defendant recognized that if they went to a jury of 12 Americans sitting and deciding whether they were responsible in their actions, that second set
What we know for a fact is that the industry has pooled $100 million to protect themselves, preemptively, to ensure that the communications are covered by the attorney-client privilege, to ensure that doctors are all centralized and that—therapists might be covered by that privilege because of attorney-client privilege. They are using our system of civil justice in the courts very well to protect themselves. They are unwilling to let others use the same devices to protect themselves.

This great surge of lawsuits, as was indicated before many times in the Senate, financial reports filed with the SEC, many of the companies are privately held so only few report publicly, indicate to their shareholders there is no material financial risk involved with these suits by municipalities or individual litigants. The litigation costs out of pocket for one of these publicly reporting companies is about $4,500 in the last several months. Hardly a crisis.

And then there is the suggestion that our defense will be imperiled. As I pointed out in my opening remarks, voluntarily the Defense Department is contracting with foreign manufacturers on the use of law. In fact, I don't know what the status is of the civil law in Europe, but I would be surprised if it was more lenient than our laws at present, but they are doing it because they want better weapons.

I entered the Army in 1965. The Colt .45 automatic was the side arm of the U.S. Army and had been since the Philippine insurrection in 1903. Now it is a Beretta Italian model produced by an American subsidiary, wholly owned subsidiary of an Italian company, and not, I don't believe, by a national armory of the Italian Government. They are a privately held company.

This notion that this has anything to do with defense is supported, unsubstantiated by any fact and by the behavior of the Pentagon. They are not coming to us and asking us for this bill so they can keep alive the necessary firearms manufacturers in the United States. They have made a conscious choice for many reasons to go overseas to buy these weapons.

Again, I am in a situation where we are attempting to reach into the courts of each State of the United States and tell these legislatures that they must propound many of these rules with respect to civil liability—cannot do that. What can be more antidemocratic than that? Then, going to the Commonwealth of Massachusetts and saying: You know, those laws and rules you passed about liability? Can't do that. We don't like it. Or the gun industry doesn't like it.

The case most frequently cited to suggest a crisis is the result of the deliberations of the Washington State Senate. That was passed a strict liability bill. That bill was upheld by the DC Court of Appeals. The DC Court of Appeals did not create a rule of strict liability. They said, essentially, the democratic process is working. Elected representatives of the people decided that would be the rule. As a court we cannot step in and overturn that. That is democracy. Of course, we are deciding, not to deep into, in the Court of Appeals, the rules of 50 States. That is antidemocratic.

This legislation is going to deny people who have been hurt the right to bring their case. They might not succeed. And where the tongues have pointed out, many of these cases have been turned down because they could not show that the duty owed to the public was violated by the particular manufacturer or gun dealer. But they have the right now to make that showing. We are taking that right away from them. This right is something that I think we all would protect, not try to circumscribe and deny, and you cannot go into court with a theoretical interpretation of the law; make new law, Your Honor. You have to have a case. You have to show harm. You have to show what the duty of the defendant was, how that duty was breached, and how that breach caused the harm.

That is the way our system works. But not after this legislation passes. You can have the duty, you can have a breach of that duty, and you can have grievous harm. But the victim cannot go to court. It is not about an avalanche of lawsuits. There are a minuscule number of suits filed in this regard. It is not about courts out of control. In some sense it is Congress out of control, the Government, we don't care what the State rules are, we are making the rule.

We should be able not only to talk about but to offer amendments. I hope in the intervening time we have had to analyze the amendments that we could offer amendments and talk about them. I hope that is the case. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will submit for the Record a letter from Beretta U.S.A. Corporation that the Senator just mentioned as an Italian subsidiary, fully owned U.S. corporation. It is a significant letter because it effectively refutes almost all of what the Senator has said. I say that in this respect. It is true everything the Senator has said, and that is not in dispute as a general relationship of data is and what they do. They make the standard side-arm for U.S. Armed Forces, and they have had a long-term contract right now to supply this pistol to our fighting forces in Iraq. These pistols have been used extensively in Iraq during the current campaign, just as they have been used since the adoption of the Armed Forces in 1985.

Beretta U.S.A. also supplies pistols to law enforcement departments throughout the United States, including the Maryland State Police, Los Angeles City Police Department, and Chicago Police Department.

But here is what is significant about Beretta. What Beretta says is exactly what the Senator refuses to recognize. The decision by the District Court of Appeals to uphold the DC strict liability statute as they have in the case of Beretta U.S.A. has the likelihood of bankrupting not only Beretta U.S.A. but every manufacturer of semiautomatic pistols and rifles since 1991.

The letter to this administration, to Vice President DICK CHENEY, goes on to say:

There are hundreds of homicides committed with firearms each year in D.C. and additional hundreds of injuries involving misuse of firearms. Each firearm manufacturer has the resources to defend itself against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them in which they would have no choice but to argue for bankruptcy.

That is the essence of a lawsuit that has just been decided in the District.

Mr. REED. If the Senator will yield, I think you need to read this letter, the subject of that letter is strict liability, which in layman's terms—and I will consider myself a layman—means that there is no real judgment about the behavior of the defendants; that if they sold a product that was a poorly manufactured product by Beretta and it was involved in a crime, they would be liable without showing a show of duty or negligence and whether they took rational and reasonable steps. That is what strict liability is.

There is a distinction between strict liability and negligence. The legislation we are considering is not about strict liability alone. It is about negligence. It goes way beyond that letter. If we were debating legislation that said essentially a company may not be held strictly liable for X, Y, and Z, this would be a different debate entirely.

This legislation goes way beyond strict liability. It is going to essentially nullify those cases, those that you must show that, in fact, the manufacturer or the dealer had a duty and unreasonably failed to perform that duty, that is what you have to show. In fact, I think I accurately represented what was in the letter.

Mr. CRAIG. I did not say you didn't. Mr. REED. I appreciate that. I do. But the point is we are taking a legal theory of strict liability, which they are upset about, obviously, and concerned about, but it does not translate to this bill. None of these cases I talked about—Lemongello or the case with respect to Guzman—is arguing these manufacturers or sellers are strictly liable. These cases are essentially—now there might be other cases—but they are saying, essentially, they had a duty, they were negligent. This legislation we are debating today would wipe away their rights to make a negligence claim. So I agree entirely with the letter in terms of its accuracy. That is what they are talking about. They are concerned about it.
Frankly, if I were the general counsel of Beretta, I would be concerned about it. It might not move me to do the same thing they are suggesting. But we have to be very clear about this legislation, which goes way beyond the strict liability. Again, if we were talking about a strict liability statute, this would be an entirely different debate. I do not think I would necessarily agree, but certainly I would be looking at an almost entirely different subject matter.

I thank the Senator for being extremely kind in yielding me time and also being extremely accurate in summarizing my views.

Mr. CRAIG. Mr. President, I thank my colleague.

Let me read another paragraph from that letter, which I think clearly spells out the fear that my colleague would wish to step aside from and argue that is simply not the case. He is dealing with a strict liability statute.

This paragraph says:

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm manufacturers, importers and distributors liable for the cost of criminal gun misuse in the District. Equally grave, the industry is after the manufacturers because they believe that they would be laid to the industry as criminals, and dozens of others could be wiped out by a single decision, which goes way beyond the strict liability statute. Again, if we were talking about a strict liability statute, this would be an entirely different subject matter.

Now, does that take away the costs involved in the preparation, the hundreds of millions of dollars that are now being spent? No, it does not. This was a frivolous lawsuit from the beginning, it was clearly intended. And that is what the District court said. The District of Columbia did not hide it. They were after the industry because they believed that they had produced the gun that the criminal used in the commision of a crime.

So it goes on. I submit this letter for the Record. I think the letter stands on its own. It clearly affirms why we are here debating S. 397 and the importance of this legislation.

Mr. President, I ask unanimous consent that this letter be printed in the Record.

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

BERETTA U.S.A. CORP.

Acceokee, Maryland, May 11, 2005.

Hon. Richard B. Cheney,

Vice President of the United States, Washington, DC.

DEAR MR. VICE PRESIDENT: A few weeks ago, the Washington, D.C. Court of Appeals issued a decision supporting a D.C. statute that holds the manufacturers of semiautomatic pistols and rifles strictly liable for any crime committed in the District with such a firearm.

Passed in 1991, the D.C. statute had not been used until the District of Columbia recently filed a lawsuit against the firearm industry in an attempt to hold firearm manufacturers, importers and distributors liable for the cost of criminal gun misuse in the District.

Although the Court of Appeals (sitting en banc in the case D.C. v. Beretta U.S.A., et al.) dismissed many parts of the case, it affirmed the D.C. strict liability statute and, moreover, ruled that victims of gun violence could sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is now impractical to hold receivers liable in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two limitations, the companies that are within the control of or can be prevented by firearm makers, the D.C. strict liability statute (and the D.C. Court of Appeals' decision supporting it) will make manufacturers liable for all costs attributed to such shootings, even if the firearm involved was originally sold in a state far from the District to a lawful customer.

Beretta U.S.A. Corp. makes the standard sidearm for the U.S. Armed Forces (the Beretta M9 9mm pistol). We have long-term contracts right now to supply this pistol to our fighting forces in Iraq and these pistols have been used extensively in combat during the current campaign, just as they have been in use since adopted by the Armed Forces in 1985. Beretta U.S.A. also supplies pistols to law enforcement departments throughout the U.S. including the U.S. Marine Corp, Los Angeles City Police Department and to the Chicago Police Department. We also supply firearms used for self-protection and for sporting purposes to private citizens throughout our country.

The decision of the D.C. Court of Appeals to uphold the D.C. strict liability statute has the likelihood of bankrupting not only Beretta U.S.A., but every maker of semiautomatic pistols and rifles since 1991. There are hundreds of homicides committed with firearms each year, and for each traditional hundred of injuries involving criminal misuse of firearms. No firearm maker has the resources to defend against hundreds of lawsuits each year and, if that company's pistol or rifle is determined to have been used in a criminal shooting in the District, these companies do not have the resources to pay the resultant judgment against them—a judgment against which they would have no defense if the pistol or rifle was originally sold to a civil servant.

When the D.C. law was passed in 1991, it was styled to apply only to the makers of "assault rifles" and machineguns. Strangely, the definition of "machinegun" in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving a magazine (whether made by the firearm manufacturer or by someone else later) that hold more than 12 rounds, this means that such a product is considered a machinegun in the District, it is a semiautomatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 896, H.R. 800) would stop this remarkable and egregious decision by the D.C. Court of Appeals. The Act, if passed, will block lawsuits against the makers, distributors and dealers of firearms for criminal misuse of their products over which they have no control.

We urge you to request your support for this legislation. Without it, companies like Beretta U.S.A., Colt, Smith & Wesson, Ruger and dozens of others could be wiped out by a flood of lawsuits emanating from the District.

This is not a theoretical concern. The instrument to deprive U.S. citizens of the tools they enjoy their 2nd Amendment freedoms now rests in the hands of trial lawyers in the District. Equally grave, control of the future supply of firearms needed by our fighting forces and by law enforcement officials and private citizens throughout the U.S. also rests in the hands of these trials lawyers.

We will seek Supreme Court review of this decision, but the result of a Supreme Court review is also not guaranteed. Your help in supporting S. 397 and in keeping this case off the Court is the only one we think can provide our only other chance at survival.

Sincerest and respectful regards,

Jeffrey K. Reh

General Counsel and Vice-Manager

Mr. CRAIG. Mr. President, I yield the floor.

Mr. CORZINE. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1619, if possible.

Mr. CORZINE. Mr. President, reserving the right to object, we are going to make every effort, over the course of today and tomorrow, to screen the amendments that are coming forward because there is a pending amendment on the floor that would have to be set aside. We are looking at the Senator's amendment now, and it has been submitted to us. Once we have analyzed it, I will be happy to get with him to determine whether I feel comfortable or we feel comfortable with that amendment and go forward.

So at this time, clearly, I appreciate the Senator's sincerity, but I would have to object to the setting aside of the pending business on the floor, which is the amendment offered by the majority leader.

Mr. CORZINE. Mr. President, reserving the right to object, I ask unanimous consent that amendment No. 1619 be set aside, if possible.

Mr. CORZINE. Mr. President, the distinguished Senator if I might be able to understand the principles that would be involved in deciding whether there are particular avenues of exploration to make sure that this amendment is acceptable going forward? How would we look at this?

Mr. CRAIG. If the Senator will yield, Mr. President.

Mr. CORZINE. Mr. President, if the rules of the Senate.

Mr. CRAIG. Mr. President, the rulings of the Senate. There is pending business before the Senate. It would take unanimous consent to set aside the pending business to go on to other business. So that the only business we are involved in at this moment. And defending my right to the floor and the amendment before the floor, I am simply upholding that right to the rules of the Senate.

The leader has said, most sincerely, that we would examine all the amendments that are brought forth to determine if there are some that we can agree on, that ought to go forward, that fall, I think, into the conscript of those of us Senator who are the supporters of this legislation and who would do so. But now it is the rules of the Senate that cause me to take the action I have taken.
Mr. CORZINE. Mr. President, I appreciate the Senator's candor. I hope we will be able to bring up my amendment, which will protect the rights of law enforcement officers who are victimized by gun violence to get justice through the American legal system.

I would note the presence of my colleague from the State of New Jersey in the Chamber, who has been a remarkable advocate for law enforcement and for the safety and security of people in our communities.

This past Monday night, I missed a vote on the floor of the Senate because I went to a wake for a police officer, Officer Reeves, who was shot on the streets of Newark by a gang member. The gun that was used has not yet been traced to find out whether it was trafficked in the illegal or black market, or whether it was bought by a straw purchaser.

But there is one thing that is certain. We have five children within the pew with their mother at that wake, all under the age of 11. Gun violence is real. The amendment I would like to bring up—which I appreciate the rules of the Senate and respect the judgment of the Senator from Idaho—will protect the rights of law enforcement officers. I understand that this bill is going to pass with, I understand, 61 cosponsors. But I hope my colleagues will understand that, at a minimum, law enforcement officers should be permitted to bring lawsuits against culpable gun dealers and manufacturers.

In the Lemongello case, actually, the people who sold the guns recognized their own mistake, and settled with Detective Lemongello and Officer McGuire. They were able to reach this settlement because Congress did not pass this bill last year, which would have given the gun dealer immunity and removed these lawsuits from the courts.

Now, what's more, the gun dealer who sold the gun to the criminal who shot Detective Lemongello and Officer McGuire, along with several other purveyors of guns in that West Virginia city, changed their policies. These gun dealers now sell one gun at a time as a result of this lawsuit and they no longer make bulk sales.

So this is a real issue. This is not just a debate. There are people dying because we are not doing the right thing. There are lots of forums where we can make this case, and we will continue to, those of us who care about public safety, who want fewer guns on the streets, and who care about accountability.

It is hard for me to understand this legislation as it relates to States' rights, in the sense that State legislatures, both Republican and Democratic, have supported the right of victims of gun violence to have access to the courts.

So this is my view, and I am only one Senator, but it is heartfelt. My opposition to this amendment comes in the context of the real problems and the real tragedies that will occur if we do not have the right checks and balances in the system, if we take away the right of innocent victims to go to court when they are wronged.

I understand that this bill will pass but I am asking all my colleagues to, at the least, support this amendment to protect the brave men and women in uniform who risk their lives to protect the citizens of our country every single day—people like Detective Lemongello, Officer McGuire, and Officer Reeves.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from New Jersey and will share a little personal perspective.

I have been in law enforcement for the better part of my professional career as a prosecutor. Some of my best friends are law enforcement officers, I have stood shoulder to shoulder with them in the scouting cases. I know the risks they undertake to carry out their duties. I believe in what they do, and I believe they should be supported.

These law enforcement officers are not telling me that if a criminal murders one of their brothers or sisters, that they want to sue Smith & Wesson. The thought does not cross their mind. They are concerned that if they catch the criminal who did it, that it is likely to be 15 or 20 years before the litigation is over. If they are found guilty and sentenced to death—if the law provides for it, they should be—they get upset when it never seems to happen, and years and years and years go by. That disrespects police officers.

It seems to me some of the same people who are talking so much about defending police officers are not as aggressive as they should be on some of these issues that really mean much to the officers.

I would say that I think, on the Lemongello case that has been referred to, based on my experience and understanding of the law as a prosecutor in the Federal court, as a U.S. attorney who prosecuted individuals under Federal laws involving this, you cannot sell a firearm to a “straw” person who is holding it to move it to another person.

And if you have reasonable evidence to believe the person you are selling it to is a “straw” person, and it is going to somebody that someone else must fill out all the forms, put their name on it, and qualify to receive the weapon. And if you do that, and sell the firearm under those circumstances to someone who is not the true purchaser, you are not only subject to a lawsuit under this bill for civil damages, but you are subject to criminal prosecution as violating a Federal law.

I have prosecuted people for that. I have even had the responsibility to prosecute a gun dealer for not accurately handling these kind of matters. If it is a crime, there is clearly a basis to sue the gun seller. But you don't want to sue the manufacturer off in Massachusetts or wherever they are making the gun. If a seller irresponsibly sells it or violates a law in selling a weapon, you don’t sue the manufacturer. They don’t become an insurer for criminal acts.

That is what we are trying to do, to pass some legislation that does nothing more than restore the classical understanding of American civil liability. Who should be sued and under what
circumstances should they be sued? If they sell 11 guns and they don’t make them comply with the waiting requirement, if they don’t get the proper identification from the person who is actually buying the gun, then they have aided and abetted in getting the gun to somebody that is subject to prosecution for which they can be prosecuted and sued under this legislation. What we are talking about is abusive lawsuits where people are being held liable for criminal intervening acts. That is not a principle of American law. People say: Enough is enough. We just have to do something.

What do you mean we have to do something? We are the legislative branch. We can consider laws if there are enough votes to pass them. But that doesn’t mean we allow improper lawsuits to go forward. Senator Craig just read the letter from Beretta. One city, Washington, DC, if its laws are allowed to stand, which make gun manufacture or distribution illegal for everyone committed by a criminal in DC, it will bankrupt every gun company in America. One city can do that. And these companies sell guns to our police officers. They sell guns to our military people who are an important part of our American economy. Are we going to now buy our guns from foreign companies? We are not going to have any left in the United States that can survive this flood of lawsuits. It is a serious matter.

The bill is carefully crafted. That is why the Democratic leader, Senator Reid, and former Democratic leader, Senator Byrd, and others are cosponsoring this bill. It has been here for several years. It has been reviewed. The loopholes in it have been examined and closed. It has gained support. Now we have a bill that should have already been passed.

I find it passing strange that our colleagues who filibustered a motion to proceed to consider the bill—they filibustered that and delayed this process over a day on that issue alone, when we could have already had the bill up, debated, and voted on. The votes are here to pass it. Let’s move forward and get it done. It is quite odd that our colleagues would complain about wasting time on the bill. They are just unhappy because they don’t have the votes to defeat it up or down. They don’t have the votes to sustain a filibuster. They are using delaying tactics that make this legislation that is needed, that has strong bipartisan support, cost more days and more hours of the Senate’s time than it ought to.

I wish to share an overall perspective on gun law enforcement in America. Back when I was a U.S. attorney, I came to believe that we should aggressively prosecute criminals who utilize guns during the course of criminal activity, that felons ought not to possess firearms. Bob Cottrell and I have been in our Federal law for many years. We enhanced penalties. Not too many years ago, in the 1980s, they made it a mandatory 5 years in jail, 60 months without parole, for anybody to carry a firearm during the commission of a Federal felony or any felony. That is a strong tool. I believe we ought to prosecute those cases because I am convinced that a lot of the murders in this country are committed by gun offenders and only a small number are all gang members carrying guns around as they do their criminal work. And if somebody crosses them, they pull out a gun and shoot them, and people get killed.

Let me say this first: Most Americans are not murderers. Most Americans are not criminals. Most Americans who have guns—and most Americans do have guns—are law-abiding, decent, peaceful citizens. They are not ever going to murder somebody. This is some sort of myth out there that we are going to fill up the jails if we enforce these laws. There are not that many people out here trying to kill somebody or commit crimes carrying firearms. That is a hard-core group of criminals who deserve to be targeted.

I created my own program called “project trigger lock” in the 1980s. I created a newsletter on it. We sent out news to our sheriffs and our police departments on legalities and the policies of my office to prosecute cases that they may be working on involving these kinds of criminals. We enhanced our prosecutions.

Then I was elected to the Senate. I came here in the middle of the 1990s. All I heard is, we have to pass more laws to crack down on innocent people who own guns, people who don’t commit crimes. They are the ones for whom they want to make it more difficult. They want to constrict the constitutional right to keep and bear arms through any number of devices. At that time, it was thought to be politically popular, that we would just keep voting more and more restrictions on private gun ownership. To me, this was kind of a crime. I guess they thought people would just give up and Americans would capitulate and not stand up for their right to keep and bear arms. But it didn’t happen that way. The American people got their back up on it.

The politicians are beginning to hear it now, and the people expect to be able to maintain their constitutional right to have a firearm. That is just what has happened.

As all this happened—and I am in the Senate—I am thinking, This isn’t going to affect crime. Ninety percent of convictions in Federal firearms cases have to do with using a firearm or carrying a firearm during the commission of a felony and the possession of a firearm after having been convicted of a felony. Those are the bread-and-butter cases. Many of them are being brought. And when you effectively enforce justice, just those two laws—and there are many others, such as machine guns and short guns, handguns—then you have a law that is a common case that used to be prosecuted, and I prosecuted lots of them. I personally tried sawed-off shot-gun cases. I personally tried and prosecuted cases where the serial number had been erased from a firearm. It is a crime to erase it. It is a crime to sell or to carry a firearm that has a serial number erased. It is a crime to transfer a firearm to somebody else that has been modified in this way. We have all kinds of laws. It is a crime to go to a gun dealership and provide any false statement on a document that you have to sign before you get a firearm or to violate any of the myriad of laws on ownership.

What I am saying again is that the most common cases are the possession of a sawed-off shotgun, carrying of a firearm during a criminal offense, or possession of a firearm after having been convicted of a felony. For the rest of your life, unless your disabilities are removed, if you are convicted of a felony, you cannot be allowed to possess any firearm, even to go hunting. That really galls some people, but that is the law.

I went down to the Department of Justice to pull their statistical book. I have seen the statistical book. I used to get it when I was U.S. attorney. It would show the number of prosecutions in every category of crime. What did I find? That under President Clinton’s Attorney General Reno, Department of Justice gun prosecutions declined rather significantly. At the same time they were accusing Members on this side of being soft on gun crimes and not supporting efforts to protect the innocent from criminals and all of these things, they were reducing the number of Federal prosecutions for gun crimes. I raised that in hearing after hearing after hearing by the time the Clinton administration was leaving office, the numbers had picked up a little bit. President Bush came in. At the first hearing, I asked new Attorney General John Ashcroft: Are you going to make it a priority of the U.S. Department of Justice to increase the number of gun prosecutions in this country? Attorney General Ashcroft said: Yes, that is my mandate. That is what the President wants. That is what I believe in, and we are going to do it. And prosecutions have gone up. Murders continue to decline. That is one of the more remarkable things that has happened, we have all the restrictions on ownership. We can celebrate. Murder and violent crime have been on a period of decline. I am absolutely convinced that one of
the reasons that has occurred is because of the steadfast, consistent, tough prosecution of criminals who carry guns, either former criminals or criminals while they are committing their crimes on the streets. I believe it works. In fact, it is known throughout the criminal community that if you carry a firearm during drug-trafficking offenses, if you carry a firearm during any other kind of crime you are committing, you are likely to go to Federal court by a Federal prosecutor. And in addition to the sentence you get for the underlying crime you committed, such as selling drugs or robbery or burglary, you get whacked by another 5 years in jail without parole. If you carried a machine gun, a fully automatic weapon, that is 20 years consecutive without parole. It is goodbye, so long, throw away the key. You are exiled from our community. That is what happened.

During the Clinton administration, a very fine U.S. attorney in Richmond began to drive this issue. He called it “Project Exile.” He put out the word in the street. They had billboards. They put up signs. If you are convicted of carrying a gun during a crime—you are a felons and you carry a gun—we will prosecute you. You will be guaranteed a long time in jail without parole. You will be sent to a Federal institution, maybe in a distant city. That is why he called it “Project Exile.” The violent crime rate in Richmond plummeted. They did what they said they were going to do. They prosecuted those cases.

All I am saying is, with great sincerity, based on my personal experience and a fair analysis of what has happened out there, let’s continue to be aggressive with these prosecutions.

Let’s not let up. Let’s make sure that even more people understand with crystal clarity that if they are a criminal and you are using a gun during the course of their work, or carrying one as they go about their business, they will be prosecuted. And when they are prosecuted, they will not only be convicted, but they can be assured they are not going to get probation, some sort of halfway house, a couple of months on probation, or something like that, but they are going to the slammer for a significant period of time—perhaps a very long period of time. And if we keep that up, we are going to continue to see the crime rate drop.

That is my hope and that is what is happening. I believe that is the fact. Fortune magazine, in the last few months, had an article about it. They said very few people have commented on the obvious fact that, yes, our prison population has gone up, but our crime rate has dropped. Can we add 2 and 2? Most people in America are not criminals. We are not going to continue to have the prison population go through the roof because most people don’t commit robbery, burglary, or carry guns during illegal activities. Very few people do that.

What we were doing in the 1960s and 1970s was calling the criminal the victim. We forgot the true victims. We wanted to see what we could do to help the person who was committing the crimes. We finally realized that some of these people are just dangerous criminals. They ought to be punished and removed from society. If you let them back out, they will commit more crimes. So this has been occurring in our society. We are now in the job of targeting repeat offenders. We are doing a better job of targeting violent offenders. Can we do better? Yes, we can. Can we be more sophisticated? Yes. Are our current laws a bit too heavy-handed? Probably so. We could probably reduce the penalties on some of the defendants. But the very principle that there is certainty and tough punishment for violation of Federal gun laws is one of the concepts that has led to the reduction of violent crime in America, for which we are very proud and we are going to get probation, some sort of sentence, maybe in a distant city. That is what happened.

Back in the 1960s, the crime rate was increasing 10, 15, 18 percent a year. People went from the 1950s when they never locked their doors to being terrified, raped, robbed, and murdered in the 1960s and 1970s. The crime rate had more than doubled in 20 years. Now there has been a decline. It has been declining for the reasons I just stated. We can be more sophisticated. I have personally offered legislation that would reduce the mandatory penalties for crack cocaine. Some on my side think that is soft on crime. I think we need to be sophisticated in enforcement. Every year in jail should be carefully scrutinized. If you carry a gun, you should not serve longer than they need to serve. I think we can modify that. Judges tell me they think it ought to be modified. I stepped up to the plate to do that.

But the basic principle that you crack down and you are tough on people who commit crime, and you are consistent, and they know if they are carrying a gun and committing a crime in our country they are going to be sentenced to a long time in jail, that will begin to change the criminal community. If you carry a gun during your crimes, you are likely to go to Federal court and serve hard time, without parole. And they are not doing it so much.

I say this: It is likely that the number of gun prosecutions are going to begin to decline because criminals are not carrying guns anymore because they know it is a ticket to the big house. It is something that has worked. It has saved hundreds and thousands of innocent lives in this country. It has saved thousands of people from being permanently disabled by being victims of crime, whether it is guns, knives, or anything else. It has been a good thing that has been accomplished. I love the law enforcement community, our law officers with whom I served. They put their lives on the line for us. They work very hard for us. Now that has declined, we now have more police officers per crime. They are able to give even closer focus on each individual crime. At one point, there were so many crimes they hardly had time to investigate or prosecute them. Now trends are going our way. We need to keep after it. But having the right to bring out bogus lawsuits against an honest seller of a legal firearm, or against an honest manufacturer of a legal firearm, is not the right approach. It is just not consistent with our American principles of law; it is not what we believe in. It is not a legitimate tactic. It is an abuse of the legal system to carry out a political agenda, and it should not be done. Every company, every manufacturer who has a license to sell guns, according to the law, ought to be able to do so without fear of being brought into some bogus lawsuit. That is all we are saying. I think this bill does that. I see my colleagues from New Jersey, the great advocate that he is on this issue.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I want to say a few words about this bill and how I see it.

I think this is a terrible period for America—the fact that we are taking an action and making it a preceding action to considering some other issues that are, I think, far more important than the subject at hand.

I heard an accusation by our friends on the other side that the Democrats were using delaying tactics and just wasting time by putting us off. This is not an important piece of legislation that says if a gun manufacturer does something, or the dealer is careless and leaves the gun on the counter and someone picks it up and goes out and kills someone, you cannot sue them; there is no civil action. That is determined to be more important than getting a defense authorization through that said give our troops everything they need to protect themselves. No, no, no, we have to put them on the side because what we want to protect today in this place—and it is shameful, in my view—is gun manufacturers who might knowingly make guns available to a criminal or someone who is deranged and not yet a criminal but he is not a criminal until he pulls the trigger—or a distributor or a gun dealer.

We saw a case not too long ago regarding the Washington sniper, and the fact that the shop owner could not tell whether this fellow had stolen the gun. If he had, he sold him the gun. There were no records kept. It is shocking. We have heard this: When a car manufacturer produces a car and a drunk
driver takes that car and kills somebody on the road, should the automobile manufacturer be liable? I don’t think that is a proper comparison. I say that if a gun shop owner walks away from his counter and leaves a pistol on the counter and somebody takes it and kills somebody, he ought to be punished—not only punished by having a civil action against him, but punished by going to jail. That is what the sentence ought to be.

What we talk about whether a product is used to harm others, automobiles typically are not produced to harm others. But guns are lethal. When you pull a trigger, something happens. I carried a gun. I carried a gun in the uniform of my country. I knew what I was supposed to kill the other guy, if I saw him first. So guns are not play toys and they ought not to have such a place in our society that we can delay getting onto our Defense bill, getting onto other legislation that we desperately need, such as the Transportation bill or Energy bill.

We cannot discuss those things, no. The majority says: No, America. I want Americans to listen to this. The most important thing we could do in this Senate—all 100 of us representing every State in the country—is make sure that gun manufacturers, or gun distributors, or gun retailers who may be careless—hear that—or grossly negligence in the way they are handling their records or weapons—no, come on, America, stand up and protect those gun manufacturers and dealers. The wall with this other stuff that affects everyday lives, affects a family who has someone sitting in Iraq, maybe with not enough armor on their humvee, or not enough weapons.

I met with a group of veterans the other day who had returned from Iraq. They gave some remarkable rehabilitation. They had gone through traumatic experiences, wounds, et cetera. I asked them: Was there anything you were missing? A young woman soldier who had seen combat said: We don’t have enough ammunition to practice using a 50-caliber machine gun so that when we are in combat, we are not quite sure how to use it.

That is more important than protecting a gun manufacturer or dealer who doesn’t handle the weapons inventory properly—no, we have to make sure we don’t go after those guys. Talk to the parents. Talk to those who have seen what happens with their child, in terms of gun violence, and see how much more the Senate is spending time on this issue and holding up everything else. You cannot do other things, no, because artfully, craftily, the other side has shut down the ability to offer amendments. I don’t want to get too complicated in explaining the process to the American public. They are not interested in the process.

My colleague was on the floor a moment ago, and one distinguished Senator and my friend, and I enjoy serving with him. He tried to introduce an amendment that would make it a special penalty if a police officer was killed by a gun. You could then punish this bill of immunity that says you cannot bring a lawsuit against a gun manufacturer, a gun distributor, a gun dealer—no, you cannot do that because that is important.

After all, these guys give money. They give money for campaigns. The NRA—a small organization in numbers—controls what we do in this body. It is shocking. It is shocking that that organization, which is bent on making sure that everyone who wants a gun can get it—that is what they are saying. No, we have to protect them.

But the remaining 290 million people—or whatever the number is—are not entitled to the same protections as we want to give the gun industry. We have heard how can you, said one of our distinguished colleagues—and these people are my friends; we differ so much on this issue—how can you take a legitimate business and take away their ability to do business and punish them if somebody in the body they sold a weapon to has a record of mental delinquency, a disability, a bent to violence? How can we blame the gun dealer? We make sure we protect gun dealers who are not licensed.

It is a gun show loophole. Those are dealers who don’t have to have a license, and they can sell a gun to anybody—Osama bin Laden, and the whole thing—and not get punished for it. They don’t ask for any identification, no address, no phone number. They sell the gun and take the money. Those poor people, why should we make them go through the rigors of getting a license just because they are selling lethal weapons, the kind of weapons policemen carry and the FBI carries, and criminals? Why should we make them go through that?

My colleague talked about the policeman in New Jersey who just lost his life, Dwayne Reeves. He loved being a cop. He was following in his father’s footsteps. Officer Reeves was breaking up a fight when a gang member pulled a gun and shot and killed him.

While this is another American tragedy, unfortunately it is not unique. We see lots of people every year perish because of a gun mishandled or a gun directed at innocent people. In the State of New Jersey, we had 415 gun deaths in 2002, according to the CDC. Mr. President, 2002 was the last full year of statistics they have. According to the CDC, 2,997 children and teenagers died from gun violence in 2002. Again, that is the last year for which complete statistics are available.

We see that in the United States, 30,000 people were killed, including suicides, homicides, unintentional, accidental shootings. But when we look at other countries, we see how few households there are with firearms and gun homicides per million. In Japan, it was less than 1. In the United Kingdom, it was 1.3. In America, it was 62, 62 guns per million where homicide is involved. So we see we are especially susceptible in this society of ours to casual gun ownership, gun use, very frankly.

We see incidents in my State, as we see in every State. A young woman in Atlantic City, NJ, was at a dance. An older man with a history of mental disturbance met her at a friend’s home and tried to engage her physically. He shot her through the eyes. She was 15 years old. Like every child killed by gun violence, the girl mentioned left behind many anguished loved ones—grandparents, sisters, friends, and classmates.

I heard those parents ask: How did a gun fall into the hands of a deranged person? I heard police officers question how guns were obtained by gangsters, such as the man accused of murdering Dwayne Reeves, the police officer murdered the other day. I heard teachers, pastors, and neighbors bemoan the gun violence that has ripped communities apart and destroyed lives. But in my 20 years in the Senate, no one in New Jersey has ever come up to me and said: You know, Frank, I am worried about the fact that gun manufacturers might be held accountable for all this violence and bloodshed. Can you make sure we protect the gun dealers and gun manufacturers?

That is why I cannot believe the Republican leadership is wasting the Senate’s time on this gun violence immunity bill. I believe it illustrates just how badly we as a Senate have lost touch with reality, with the concerns of the average American families.

If this bill passed the last time it was brought to the floor of the Senate, the six victims of the Washington snipers would have lost their right to sue the gun dealer who negligently put a gun in the hands of those murderers. The gun dealer, in that case, ultimately settled a lawsuit for $2.5 million. Why did they settle? Because they knew they were negligent.

Instead of debating gun violence immunity, we should be pressing forward with the Defense bill, as I said earlier, to support our troops and show concern for the average family because the average family are the ones supplying the sons and daughters to fight for our interests in the Middle East. But the majority leader decided that they need. The Senate is setting aside the safety of our troops in order to protect gun dealers. What an outrage that is.
During the July recess, I had the chance, as I mentioned, to meet with some soldiers and military families in New Jersey. They have been affected by the Iraq war. The effects are so enormous that when you look at the problem, there's a gun counter, you search your head and wonder don't we can do more to take care of them.

I talked with one young man who says, when he applies for a job, he doesn't list the fact that he is a member of the National Guard. Why? Because an employer does not want to hire someone who is going to be away for a couple of years.

We ought to be trying to shorten that term of duty. We ought to make sure we have more troops engaged so we can send some who are in Iraq home because they accidentally have been called up and are now doing tours of duty never dreamt about.

The American families talk about not getting the resources they need to fight the war. They talk about shortages of tires for humvees. So there are not enough vehicles in working order. The shortage of humvees means we don't have the appropriate practice of what to do when the convoy is attacked.

As if that isn't bad enough, a soldier told me there is not enough Gatorade for them to drink while they are working in the desert heat. We know what it is like outside here, but we are not wearing full battle gear, and it is not 125 degrees. When soldiers find a roadside bomb, when an explosive charge explodes, they like to mark the spot with spray paint so it will be easy for them to tell if another bomb is put in the same place. But one soldier told me that the Army doesn't have any spray paint available. Soldiers were told to use their own money to buy paint to identify a place that is comfortable for someone to place a roadside bomb. They should use their own money to buy spray paint in a local market.

In short, I learned that our troops in Iraq are facing unnecessary danger because of inadequate training, lack of resources, but here we are in the Senate shifting the Defense bill aside so we can do this gun violence immunity bill. I dare these colleagues to call the families I met with and tell them we cannot help them because the NRA is asking us to grant legal immunity to these gun manufacturers, distributors, and sellers.

We should be taking up a bill to expand stem cell research. But rather than work on the stem cell bill to save lives, we are working to protect those who negligently sell guns to criminals which yields time what we are doing. I mean, we are doing, going, we hope, the extra mile. I hope it is reciprocated so we can get to amendments and get to votes. That is how in the Senate amendments are decided, not by a committee put-ting them up or down for consider-ation, but by Members voting. I do not object. The PRESIDING OFFICER. Who yields time?

The Senator from Idaho. Mr. CRAIG. Mr. President, we are examining these amendments closely. As I had mentioned to the Democratic floor leader a few moments ago on the trigger lock amendment, it was not last year's amendment. We are examining it now. It is quite extensive. It is a new approach toward trigger locks and licensed gun dealers and a much broader issue than before.

I see another Senator on the floor to speak, so I will speak briefly because the Democratic floor leader, Senator REID, had mentioned in his debate a few moments ago a statement by Smith & Wesson in relation to the ex-penses involved as it relates to defend-ing themselves in these frivolous law-suits.

I have a letter from Smith & Wesson to Senator BILL FRIST that I think is
important to recognize because it does put in context something that can very easily be taken out of context.

Michael Golden, president and CEO of Smith & Wesson, put it this way. He speaks to a letter in response to the Brady Brief, obviously trying to knock down the claims of gun manufacturers in their support of the Protection of Lawful Commerce in Armas Act. He stated:

In the article, the Brady Center attempts to minimize the financial implications that the numerous ‘junk’ lawsuits have had on the firearms industries. To support their position, they cite, among other things, Smith & Wesson’s most recent 10-Q, filed with the Securities and Exchange Commission. They quote Smith & Wesson’s filing, stating, “In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts received from insurance carriers, relative to product liability and municipal litigation.”

As stated in our filing, the figure reported reflects fees incurred over a 6-month period, and is exclusive of settlement amounts received from our insurers. Smith & Wesson entered into settlement agreements with two of its insurance carriers following years of coverage disputes. The settlement amounts equal a fraction of the total fees incurred by Smith & Wesson in defending against frivolous lawsuits over the past 10 years. Smith & Wesson has spent millions of dollars defending itself against precisely the type of “junk” lawsuits that the legislation is designed to prevent.

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Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered

(The remarks of Mrs. LINCOLN are printed in today’s RECORD under “Morning Business.”)

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, as most of our colleagues know, we are now on S. 397, the Protection of Lawful Commerce in Firearms Act. The current floor is an amendment on the Senate floor for consideration at this moment. Cloture on the bill has been filed.

What I thought I might do is take a few minutes to discuss the differences between S. 397, the one currently on the Senate floor, and S. 1805, the previous version of the Protection of Lawful Commerce in Firearms Act, which was considered in the Senate in the 108th Congress. Language has been added in this version to address developing issues or concerns expressed last Congress, garnering more support and adding more cosponsors on both sides.

As I announced this morning and submitted for the RECORD, we now have 61 cosponsors including myself. In some cases, the changes are just technical in their character.

But before I get to the changes, let me assure my colleagues that these changes do not alter the essential purpose and effect of the bill. As we have stressed repeatedly, this legislation will not bar the courthouse doors to victims who have been harmed by the negligence or misdeeds of anyone in the gun industry. Well recognized causes of action protected by the bill. Plaintiffs can still argue their cases for violations of law, breach of warranty, and knowingly transfers to dangerous persons. Specific language has been added to make it clear that the bill is not intended to prevent suits for damage caused by defective firearms or ammunition. The only lawsuits this legislation seeks to prevent are novel causes of action that have no history or grounding in legal principle.

This bill places blame where blame is due. If manufacturers or sellers violate the law or commit negligence, they are still liable. However, if the cause of harm is the criminal act of a third person, this bill will prevent lawsuits targeting companies that have "deep pockets" but no control over those third persons.

The first change we made in this bill was to add the words “injunctive or other relief” in the definition of “junk” lawsuits. This is to make sure S. 397 will prevent all qualified suits and respond to concerns that the 108th version would only have prevented suits for damages. The version of the bill before us today will prevent suits that seek injunctive or other relief besides those seeking only money damages. Without adding this language, law-abiding firearms businesses could still be crippled by being prevented from manufacturing or selling firearms. Any court decision that incorrectly finds dealers or manufacturers liable for criminal acts of others will destroy an industry whether there is an award of money damages or not.

In the “findings” section of the bill, we have made a couple of changes that I think will help strengthen and clarify the second amendment principles that are reviewed there.

That same section contains a new paragraph responding to questions about the bill’s Commerce Clause implications. That paragraph recognizes the reality that the bill actually strengthens federalism and protects interstate commerce. Thirty-three states have already forbidden lawsuits like those the Senate to exempt. Advocates of gun control are trying to usurp State power by circumventing the legislative process through judgments and judicial decrees. Allowing activist judges to legislate from the bench will destroy state sovereignty. This bill will protect it.

A new paragraph in the “purposes” section of the bill echoes this change.

In the “definitions” section of the bill spelling out what we mean by a qualified civil lawsuit, we have added the words “or administrative proceeding . . .”. This change responds to the experience of some in the industry, who have found themselves not only the target of junk lawsuits filed by a municipality but also the target of administrative proceedings, such as those to change zoning restrictions, also aimed at putting a law-abiding manufacturer or seller out of business just because it made or sold a firearm that was later used in a crime. However, it must be remembered that not all administrative proceedings involving someone in the firearms industry would be covered by this addition—only those that were “resulting from the criminal or unlawful misuse of a qualified product by the person (bringing the action) or a third party . . .”.

Let me emphasize: this change is not intended to, and would not, have the effect of preventing ATF or any other Federal, State, or local agency from using administrative proceedings to enforce Federal or State regulations that control the firearms business. So we are not trying to circumvent the Justice Department in any sense of the
word; or, as I have said, State or local agencies that have the right to enforce the law. For example, if a dealer actually violated a zoning regulation or local licensure requirement, this provision would not prevent an action against the dealer. Likewise, if a dealer knowingly violated the law or admitted any other infraction for which he or she could lose a Federal firearms dealer's license, this provision would not prevent ATF from initiating an administrative proceeding to revoke or suspend that dealer's license. The addition of the words "administrative proceeding" is simply intended to clarify that whether it is a reckless court or court-like administrative proceeding that is brought against a law-abiding business, based on a third party's misuse of a firearm, it is covered by this bill.

Also in this section of the bill, we have added the words "injunctive or declaratory relief, abatement, restitution, . . .". This is to ensure that the bill encompasses all qualified lawsuits, regardless of the relief being sought.

In the section relating to causes of action that would not be barred by this legislation, we have specifically listed circumstances in which manufacturers or sellers "knowingly" violate a statute. In the last Congress, we had two different versions of this section: one required the violation to be both knowing and willful, and the other version didn't require either. Since a person cannot violate the law "willfully" without doing so "knowingly," we have dropped the word "willfully" in this version.

Also in the section relating to causes of action that would not be barred by this legislation, we have made some clarifying changes to the paragraph concerning product liability actions. Again, this bill is not intended to prevent the vent of torts that the industry might have committed. Language was added to this section of the bill to make clear that even if the person who discharged a defective product was technically in violation of some law relating to possession of the product, that alone would not bar the lawsuit. For instance, if a juvenile were target shooting without written permission from his parents— that is a violation of current law, a violation of 18 U.S.C. 6482 and the summons didn't require either. Since a person cannot violate the law "willfully" without doing so "knowingly," we have dropped the word "willfully" in this version.

The final major change, other than clarifications and emphasizing language, is the provision conforming the definition of trade association to the definition in the Internal Revenue regulations. The purpose of the change was to address some arguments that were made in the last Congress, attempting to cut off the concept of a "trade association" to include groups that no one has ever considered to be a trade association. So, for anyone who might have been concerned that the National Rifle Association would somehow be protected by this bill—as was argued last time—being defined as a trade association, this change will prevent that from happening. We want that to be perfectly clear. It will also prevent illegitimate groups, such as gangs or gun traffickers, from somehow qualifying as a trade association under the bill.

I believe that I have addressed most, if not all, of the significant changes in the legislation, while they are relatively small changes in the language itself, it took a lot of words to describe them. Even so, I hope this explanation is helpful to my colleagues.

This legislation is not identical to the legislation of the 108th, but it is to all intents and purposes the same, with the kind of clarifying examples I have just given. I certainly welcome the debate on the importance of this measure, at a time, but not less than 5 days through the Senate and conclude our work and provide this country with the Protection of Lawful Commerce in Firearms as should be the case. I yield back.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I don't know how many of our colleagues during this past number of hours have had the time or the opportunity to listen to the comments of our colleagues from Rhode Island. I know we all have busy schedules and appointments in our offices and with the hearings we attend. I have had those meetings in my office as well. One thing I have not done today, which I do under normal circumstances, is put on the mute button when constituents come to my office. In the last couple of hours, I have not done that. I have been transfixed, listening to our colleagues from Rhode Island. I have not dismissed the idea that the damage resulting from my 24 years in the Senate make a case for or against a piece of legislation, and I do not recall another instance when someone has been as eloquent, as thoughtful, as well prepared as Jack Reed of Rhode Island has in presenting his case here today as to why this bill is a bad idea. I publicly commend him for his well-prepared, well-thought-out, passionate arguments on why this is a troublesome piece of legislation. I thank him for being a good educator on this subject matter.

Let me take a few minutes, if I can, to express some views. It is not every day that I question at all the majority leader's decision to seek to bring a particular piece of legislation to the floor of the Senate. As someone who has been in this body for almost a quarter of a century, I have great respect for the role of majority leader and how difficult a job it is. In fact, it is the job of the majority leader to set the agenda and to manage the committee. It's his job to move that the Senate proceed to a particular matter. So I am not questioning his right to do so. I am questioning the wisdom of having made this decision.

In this case, I cannot let pass the decision the majority leader has made to bring us to consideration of a gun liability bill. By his actions, the Senate is prevented from considering other important amendments. This was a movement to bring up the class action reform bill. They were making good progress on that bill on a number of issues that were very important to our men and women in uniform, to the families of our service men and women, to their survivors, to the families of veterans of this country who were also the subject of numerous amendments that would have been offered on the bill had it remained on the floor of the Senate for another couple of days.

In my years here, good debates on a Defense authorization bill, which is what this body is all about, have gone on 9, 10, and 11 days before a cloture motion would be filed. There have been other occasions when it has been filed in less than 5 days, but not less than 5 days. You always look forward to the week or two prior to the August break when we gather to debate and discuss the Defense authorization bill.

For the good part of the last 24 years, we have not had a debate on the subject matter of that legislation at a time of war. This time, of course, we were. Therefore, it was stunning to me to know, at a time when our men and women are in a dangerous place, when there are literally hundreds who have lost their lives, thousands who have been injured, and thousands every day who are putting themselves in harm's way, that the decision was made by this body, by the leadership of this body, to put aside that bill, which might do some things to make their lives safer, provide some security for the survivors of those who lost their lives, and be of some help to veterans. I am stunned that we set aside those issues to take up this bill that is now before us. In my quarter of a century in this body, I don't recall the Senate ever being forced off of a Defense bill in this manner.

The distinguished chairman of the Armed Services Committee put it simply and succinctly several months ago in this Chamber. Senator WARNER of Virginia said the following—when confronted, by the way, with a similar fact situation. There was a movement to take up the class action reform bill, of which I was the principal author at that time. I am a strong supporter of tort reform. There was a movement to bring up the class action reform bill. There was no movement to bring up the Defense authorization bill in order to bring up the class action reform bill. That would not have prevailed. We stayed on the Defense authorization bill. But during consideration of that motion or that effort, the chairman of
the Armed Services Committee said, “We are at war.”

We have men and women wearing the uniform of the United States Armed Forces who are this very moment being hunted by enemies of our Nation. They are bold and they are under-equipped. They are enduring some of the hardest conditions ever faced by American soldiers.

That is exactly where we are today. Yet, unlike a year or so ago when we turned back the efforts of the Bush administration to have the Department of Justice put aside the Defense authorization bill with a class action bill, this time when it comes to the gun lobby we said no, the gun lobby is more important than the men and women in uniform, more important than the people who are putting their lives on the line every day.

So here we have now the majority of the Senate saying those soldiers will have to wait a while. This is evidently a higher priority and it is this bill, a bill that would confer special privileges on a small but very powerful industry. I am frankly incredulous, to say the least, that we will apparently recess for an entire month having spent barely 2 days to decide on the critical needs of the soldiers, sailors, airmen, marines, veterans, and their survivors. I think we should finish our job. It is the least the Senate could do for our troops before we take a month-long break from our work.

Our job, after all, is about choices, sometimes very difficult choices. You can’t do everything at the same time. But I don’t know how you could possibly draw the conclusion that this immunization bill for the gun industry is a more important piece of legislation than the Defense authorization bill, to provide additional protection and the needs of the people in uniform, for veterans, for survivors. I do not know how anyone could possibly draw that conclusion. But we are at war. Who do people think happened in London a few days ago, in Sharm el-Sheik a few days ago? What event has to occur to convince this body that we ought to be about the business of doing everything we can to protect this Nation? Instead, we decide it isn’t quite that important, that this is more important.

I am stunned in many ways that anyone would even suggest this legislation in lieu of the Defense authorization bill. Imagine what the situation would be if I were to come to this Chamber and offer a similar amendment that would exclude another entire industry from exposure to potential liability for wrongdoing.

I have more than a passing knowledge of this gun industry. The State of Connecticut, which I am proud to represent, has been, and to my knowledge remains, home to more gun manufacturers than any other State in America. I know of nine such companies that currently call Connecticut the home: Colt Manufacturing, Sturm Ruger, U.S. Repeating Arms, Marlin Firearms, U.S. Firearms Manufacturing, Charter Arms, L.W. Seecamp, Wildy, and O.F. Mossbert and Sons. From 1972 to 1997, more guns were manufactured in my home State of Connecticut than any other State. More than 25 million in all were produced in my home State of Connecticut. These are good people. These are good companies. And I represent good people who work in this industry. We produce fabulously good guns. They are well constructed. They are the envy of the world.

Eli Whitney, of course, is best known as the inventor of the cotton gin. He also built a musket armory in New Haven, CT in the late 1700s. Since then, Connecticut has been the gun manufacturing capital of the country of our Nation, if not the world, for that matter. The first revolver was developed and mass produced in Connecticut in the 1830s by Samuel Colt and his wife Elizabeth who ran that company after Sam passed away at a very young age. That company today bears his name and is probably best known as “the gun that won the West.”

I also represent probably more insurance companies and more pharmaceutical companies in the State of Connecticut than almost any other State in the country. I am very proud to represent these industries. They do a first-rate job. But even though I support the people who work in these businesses and respect what they do, the idea that we would take any one of these industries in this country and absolve it from its legal responsibilities is stunning to me.

I have been a strong advocate of legal reform. I authored the securities litigation reform bill with the Senator from New Mexico, I wrote the uniform standards litigation bill. I coauthored the tort reforms on the Y2K litigation with Senator Bennett of Utah. I have been a proponent of asbestos litigation reform. I coauthored the Class Action Fairness Act. I have done work I am proud to have done in the area of tort reform. We need it. It is necessary. In my view, these bills have struck the right balance between frivolous lawsuits, while retaining citizens’ rights to seek the redress of wrongs in a court of law.

But the idea that we would take an entire industry and give it immunity from wrongdoing is simply wrong, in my view. We are saying to this industry, if you act irresponsibly or wrongfully, and if you can foresee the consequences of your irresponsible or wrongful conduct, you do not have to worry about being held accountable for your actions. No matter how much harm you may cause, no matter how many people die or are injured at least in part as a result of your wrongful conduct, you will not be held responsible. In this day and age that this body would so overwhelmingly endorse an idea such as this is breathtaking.

And it is little more than ironic that this same body, by such an inexplicable act, should listen to some who routinely lecture others about the need to take “responsibility” for their actions.

Evidently, taking responsibility is a fine philosophy for some, the poor, the elderly, schoolchildren, and men and women who struggle each and every day to put food on the table for themselves and their families. But the gun industry is being absolved in this legislation of virtually all responsibility for its actions.

Let’s consider some of the consequences of enacting this legislation. First, it will have absolutely no impact whatsoever on reducing the rate of gun violence in our Nation. In fact, this bill ignores the devastating toll firearm violence continues to take on our fellow citizens.

According to the Centers for Disease Control and Prevention, there were more than 30,000 deaths in the United States from firearms in the year 2002 alone—30,000 deaths. That is, of course, 10 times the number of lives that were tragically lost on September 11 at the World Trade Center. Here in Washington, there were more deaths in a firearm accident in a single day than were lost in a single day in all of the United States during the polio epidemic in the first half of the 20th century.

Yet we are about to exclude an entire industry from even being brought to the bar to question whether they might be liable for some of these deaths. The human cost of gun-related deaths and injuries is tragic in itself, but the economic loss is also significant. According to a study published in the year 2000, the average cost of treating gunshot wounds was $22,000 for each firearms-related death and $18,000 for each firearms-related injury. These costs would undoubtedly be much higher today. The total societal cost of firearms is estimated to be between $100 billion and $126 billion each year. Who pays this enormous cost? By large measure, the American taxpayer does.

My colleagues speak against unfunded mandates, and yet this bill, if
enacted, burdens the Nation’s cities and counties with billions and billions of dollars in medical care, emergency services, police protection, courts, prisons, and school security. It is shameful that, while tens of thousands of people are dying each year due to firearms and violent crime, federal taxpayers are tens of billions of dollars to cope with the effect of gun violence, the Senate is doing absolutely nothing to make our streets and homes safer, in my view. In fact, we are doing quite the opposite throughout the Nation today.

Second, the legislation will give this industry special legal protections no other industry in the United States has. Neither cigarette companies nor asbestos companies nor polluters have such sweeping immunity as we are about to give this industry.

Let me quote from a recent letter sent to all Senators and Representatives from over 75 law professors from across our Nation. According to them the bill . . . would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

Gun manufacturers and sellers are already exempt from Federal Consumer Product Safety Commission regulation, despite the fact that firearms are among the most dangerous and deadly products in our society. We have more regulations on toy guns than we do on the ones that fire real bullets. Imagine a toy gun that you buy from Mattel. The Consumer Product Safety Commission issues literally pages of regulations on what must be included in the production of that gun. There is not a single word in the regulations of the Consumer Product Safety Commission about the production of guns that may kill 30,000 people each year in this country.

The National Rifle Association made sure of this exemption 30 years ago, just as highly addictive tobacco products are not subject to regulation by the Food and Drug Administration. I have supported tort reform in specific areas where I believe it is appropriate. My colleagues know I worked with many of them on these issues. At the same time I recognize that litigation has been a powerful tool in holding parties accountable for their negligence and providing them with the incentive to improve the safety of their products. It has been employed on behalf of other potentially dangerous products such as automobiles, lawnmowers, household products, and medicines to protect the health of the American people. The fact that guns are already specifically exempt from the oversight of the Consumer Product Safety Commission is reason enough, in my view, why we can’t afford to grant the firearms industry legal immunity.

Third, this legislation is likely to increase criminal behavior, in my view, in our Nation. Consider the views of the people who know best, our Nation’s law enforcement officers. Yesterday some 80 sheriffs, police chiefs, and others wrote to each and every Senator that this bill will “strip away the rights of citizens to seek redress against irresponsible gun dealers and manufacturers.” This legislation will do nothing to help our Nation’s law enforcement officers to stop these criminals or to receive justice if they are shot or killed.

Who better to listen to than our own police chiefs? Law enforcement officers will tell you this is a bad bill. It is a bad bill, and it is going to cause more problems in the streets of our country. And here is what two former Directors of the Bureau of Alcohol, Tobacco, and Firearms had to say about this bill:

To handcuff ATF, as this bill does, will only send a message to gun sellers, and facilitate criminals and terrorists who seek to wreak havoc with deadly weapons. To take such anti-law enforcement action in the post 9/11 age, when we know that suspected terrorists are obtaining firearms, and may well seek them from irresponsible gun dealers, is nothing short of madness.

If this legislation is enacted, it would remove any incentive under current tort law for gun manufacturers to make their firearms safer. Studies have shown that the technology is both readily available and very inexpensive to help prevent these tragedies. For example, a load indicator could be included to tell the user that the gun is still loaded. That is never going to happen now, I promise you. A magazine disconnect safety could be installed by the manufacturers to prevent guns from firing if the magazine is removed. Even childproofing the gun with safety locks can be done relatively easily. However, if this bill is enacted into law, gun manufacturers will lose the huge incentive to include such reasonable safety devices in their products.

Evidence has been uncovered that reveals that the gun industry has been engaged in irresponsible behavior for many years. Senator Reed and others have already mentioned one such industry actor, Bull’s Eye Shooter Supply in Takoma, WA.

This gun store claims it “lost” the gun used by the Washington, DC, snipers Lee Malvo, as well as more than 200 other guns. Many of these firearms were traced to other crimes. Bull’s Eye Shooter Supply had no record of the gun ever being sold and did not report it until the Bureau of Alcohol and Firearms recovered the weapon and traced it back. After the rifle was linked to the sniper shootings and the newspaper reported on the disappearance of the gun from Bull’s Eye, the rifle manufacturer, Bushmaster, still considered Bull’s Eye a good customer and was happy to keep selling to that shop.

The judge in this case has since ruled twice that the suit brought by the families of the DC area sniper victims against Bull’s Eye and Bushmaster should proceed to trial, and a preliminary ruling has been rejected.

Nevertheless, this case, as well as other important pending and future lawsuits against negligent gun dealers and manufacturers, would be if this bill becomes law, as I suspect it will, according to the opinion of some of our Nation’s most prominent legal scholars. There are many more instances of the gun industry not taking steps to prevent guns from reaching the illegal market. According to Federal data from the year 2000, 1.2 percent of dealers account for 57 percent of all guns recovered in criminal investigations. Undercover sting operations in Illinois, Michigan, and Indiana have found that such dealers routinely permit gun sales “to straw purchasers,” individuals with clean records who buy guns for criminals, juveniles, or other individuals barred by law from possessing firearms.

If the Senate bill is enacted, police officers shot by a gun bought by a “straw purchaser” would no longer get his day or her day in court.

The bill’s supporters argue that this is an important source of guns for criminals. Studies have shown that unlicensed dealers often sell large quantities of weapons at these shows without having to run criminal background checks or keeping records. Many of my colleagues might recall that this was the source of the firearm purchased by Eric Harris and Dylan Klebold before they went on their murderous rampage at Columbine high school, but the Senate bill would not hold such gun dealers responsible for the injuries and deaths their firearms cause.

Supporters of this legislation contend that there is a gun litigation crisis in America and that many of the cases being brought against the gun industry are frivolous. Nothing could be further from the truth. In fact, there are no massive backlogs of claims against the gun dealers and manufacturers, as the bill would prevent this court system. About 10 million tort suits were filed in State courts from 1995 through the year 2003; 57 of them were against gunmakers or dealers, 57 out of 10 million cases. Is that a litigation crisis, with 57 lawsuits out of 10 million other suits filed in the same relevant area? A recall that a gun show was the source of the firearm purchased by Eric Harris and Dylan Klebold before they went on their murderous rampage at Columbine high school, but the Senate bill would not hold such gun dealers responsible for the injuries and deaths their firearms cause.

The industry claims it is spending $200 million a year on litigation costs. Yet it offers absolutely no data to support this. There is evidence that litigation costs are virtually insignificant: 57 cases in 10 years of 10 million tort cases being filed. That alone ought to tell you this is a frivolous piece of legislation. The industry claims, to suggest we need to clean up a problem involving 57 cases, many of which were dismissed.
One major gun manufacturer in a filing last November with the Securities and Exchange Commission—a filing, by the way, that it made under the pain and penalty of perjury—said this:

"It is not probable and is unlikely that litigation... including punitive damage claims... will have a material adverse effect on the financial position of the company."

Another gun manufacturer said this to the SEC in March of 2005:

"In the nine months ended January 31, 2005, we incurred in defense costs relative to product liability and municipal litigation."

That is a litigation crisis? It is outrageous to claim it is. Of the small number of lawsuits filed against this industry, none to my knowledge have been dismissed as frivolous. On the contrary, there have been favorable rulings on the legal merits of many of these cases. Courts have recognized such cases are based upon well-established legal principles, negligence, product liability, and public nuisance. Important information on the gun industry's wrongful actions, which has been cloaked in secrecy for many years, has been revealed and injured parties have been compensated, fairly and justly. These cases, however, will be precluded, and the information gleaned from them will be lost if the gun industry is granted immunity, as it seeks with this legislation.

Rather than giving special immunity to those manufacturers and dealers who wrongfully make and sell guns to criminals, the Senate should be today or at some point—again I wish we were back on the Defense authorization bill—at some point we should work to protect our police officers and the people they protect every single day. Instead of zeroing out the COPS program or at some point—again I wish we were back on the Defense authorization bill—let me read some statistics from the National Safety Council injury factsheet. I am talking about some very important statistics: Between 1993 and 2003, accidental or unintentional deaths by firearms has gone down 40 percent in America. Between 2002 and 2003, that reduction of accidental deaths has again gone down by 33 percent. Very significant numbers.

Here also are significant numbers that my colleagues would want to be aware of that are tremendously important. Total unintentional death in America, 101,500 in 2003; motor vehicle deaths of that year, 40,000; falls, 15,000; fire and burns, 4,300; drowning, 13,000; food objects, 2,900; fires, down to the number of 700.

That is less than 1 percent.

Here is what is most significant, because I don't take 700 unintentional accidental deaths by firearms lightly. But these are important statistics to understand as we look at the total scope of the legislation and even what the Senator from Connecticut said that I don't think pertains to this legislation.

Here are the statistics from the National Safety Council. Accidental firearms-related fatalities have been consistently decreasing for many years. Primarily, statistics show accidental firearms-related fatalities decline by 13 percent in one category, 2002 to 2003. Here is what is most important because we are all concerned about the young people of America. Over the past 7 years, accidental firearms-related fatalities among children under 14 years of age has decreased by 60 percent. Why? Because there are tremendous safety efforts not by the Federal Government but by private organizations. They have been very fair in allowing bills to go forward, with rare exception. Senator Frist, I have stated, has been very fair in allowing bills to go forward, with rare exception. I am concerned about what has gone on very recently: filing cloture on the Defense bill after 1 day of debate. I direct these remarks through the Chair to the distinguished manager of the bill. Mr. President, I direct these remarks through you to the distinguished manager of the bill. Mr. CRAIG. I apologize.
Mr. REID. I participated in a conversation I am confident the manager of the bill was in on this morning where the distinguished majority leader said he wanted to take a little bit of time, after having filled the tree, which is very unusual, and he would look—

the amendments offered by the Senator from Nevada and I make a decision as to which of those he would allow to be debated. He did say he had no problem with him offering amendments and we would be able to debate—and I do not recall him saying vote on them—but at least debate specific amendments that were up. But I assumed in the tenor of the conversation there would be votes on the amendments.

We have been on this bill now for 3 hours, after proceeding to it, and my friend from Rhode Island has been unable to offer any amendments. So I say to the manager of the bill, through the Chair, how much longer is it going to take before the majority makes a decision that should be routine, as to when the Senator from Rhode Island can have some of his amendments heard before the body?

Mr. CRAIG. If the Senator will yield.

Mr. President, let me address the minority leader.

Certainly, all that he has said is exactly the conversation from my reference point that went on between him and the majority leader. There is no intent to block all amendments. That is not the intent of what the majority leader did.

We have seen these amendments less than 30 minutes, in almost every instance, prior to the time they were offered. Certainly, the Senator from Nevada knows the opportunity to examine and look at these amendments, in light of similar amendments offered last year, is a reasonable request. That is the request the majority leader and I, as the floor manager, have made. Those amendments are under review now.

The floor leader for the Democrats, Senator REED, and I have visited about some of them that may well meet that scope, and we are reviewing them at this moment. This is not unprecedented, and the Senator from Nevada knows that. This is a procedure under the rules of the Senate that has been used over time. Has Majority Leader Frist used it? I don’t know. I am not that kind of a historian. But I have been here not quite as long as the Senator from Nevada, and I do know that both his side and our side have used it from time to time. It is clearly within the prerogative of the Senate to do so under its rules.

At the same time, clearly, what the majority leader has expressed was expressed in good faith with the minority leader. I would hope in the course of the evening—and we will certainly be on this legislation all day tomorrow because the cloture motion does not ripen until early Friday morning—that it would be adequate time to consider several of these amendments that have been offered. I know that is the intent of this floor leader. And certainly I believe it is the intent of the majority leader to do so.

Mr. REID. Mr. President, I am happy to hear the review is still taking place. I would hope during the tenure of this review of the amendments, a decision could be made so the Senator from Rhode Island can offer his amendments. I am happy to hear the decision has been made to allow him to do that, in keeping with my conversation with the majority leader that amendments would be debated here on the floor.

I would also say something else as to how I look at all this. I know the majority leader has a real problem with trying to jam a lot of things in this final week before we go back to our States.

I say my friend from Rhode Island, who feels so strongly about this issue, has been willing—and I am saying publicly on this amendment on the Senate—in that we have conference reports that need to be completed, hopefully on the Energy bill, the highway bill, the Interior bill, the Legislative Branch appropriations bill, and that we have to do something on the Native American legislation and other incidentals that crop up as we are trying to finish a period such as this for a 5-week break, the Senator from Rhode Island has said he is willing to allow the Senate to go forward with those other items we have before us that I have outlined and, in fact, will waive the second 30 hours he will be entitled to after cloture is probably invoked on the underlying bill.

The only thing he requires is that final passage of the bill take place, not on Saturday morning, in keeping with the rules here, but as soon as we get back, whenever the majority leader would want to do this bill when we get back. He can do it the first hour we get back here, the first day we get back, the following day, whenever the majority leader wants to do it. But I want the Senator to understand, both Democrats and Republicans, who are clamoring to go places—home or other places they have set to go during this recess—that Senator REED is not holding this up. Under the procedures of the Senate, he has a right and will keep us here until Saturday morning, unless there is a decision made that we can finish all this as quickly as possible, eliminating the 30 hours, and going forward with the other business of the Senate. It is going to be real tough to jam all that in.

I see nothing lost. There has been some talk: Well, during the 5-week period both sides will run ads and things of that nature. I have no doubt that may be true. I cannot imagine it will change any votes.

But I want everyone to understand, when people come to me and say, “Why is Senator REED of Rhode Island being so unreasonable?” the Senator from Rhode Island is being totally reasonable. Some of us have spoken to him. I think it is reasonable what he has agreed to do. So if people come to me and say, “Senator REED is not letting us leave here when we want to, and we have all this work to do,” everyone should be disabused of that. It certainly is not true.

We are willing to finish our work here. We could finish all this work tomorrow, early in the evening, and not have to be here Saturday. The rest is up to the majority. They are the ones, we understand, who control what amendments we can offer on this bill. They control when we will flow through those amendments. Either it will be Saturday morning or it can be when we get back here in September.

Mr. REED. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. REED. For the record, there are three amendments we have attempted to offer. One is an amendment authored by Senator KORIL, which I offered on child safety locks. The floor manager and I have discussed this amendment. There are some technical concerns about it.

The second is an amendment Senator CORZINE would like to offer about exempting law enforcement officers from the provisions of the bill. The third is an amendment Senator LAUTENBERG would like to offer with respect to the denial of immunity when the victims are children.

These are the three amendments. But we are not seeking any extraordinary, provocative amendments. We are trying to get amendments up that are relevant to this discussion about gun safety. I honestly believe that 3 hours—my amendment is going to take 3 hours—and at least several hours for the other amendments will be sufficient time to review this.

I am not going to make a formal parliamentary inquiry now, but I am not under the impression, under the rules of the Senate, that a Senator must get the permission of any other Senator to offer an amendment. If he has the floor, and particularly before cloture, the amendment can be offered. I will seek to clarify that. I do not want to be in error on that point.

But we have gone to great lengths to be cooperative, collegial, to be able to offer these amendments, and to this point we have got this sort of silence—or not silence, but simply: We are looking at it, we are looking at it, we are looking at it. I do not think we can continue in this process indefinitely. I thank the Democratic leader.

Mr. REID. Mr. President, I would say—and I meant to say this in my response to the Senator from Idaho—no one has said he or the majority leader are violating the rules. Everyone is going by the rules here. I know them. I am just saying, it is very unusual for Majority Leader Frist. In fact, I have nothing in my memory that he has ever done this before; that is, immediately going to a bill and filling the time, or not silencing, but simply: We are looking at it. That is the case here. I do not think we can continue in this process indefinitely.

I thank the Democratic leader.
here during his tenure as majority leader. While filling the tree is within the rules, it is done very rarely. And again, I am surprised that Senator Frisbie did this.

Mr. FEINGOLD addressed the Chair. The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. REID. Yes, I have yielded the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, we should be using our time right now to continue our work on the Department of Defense bill, moving through important amendments relating to the needs of our military and our Nation's security and giving these issues the time and careful attention that they so clearly deserve. At a time when our brave men and women in uniform are deployed in Afghanistan, Iraq, and elsewhere—risking and, too often, losing their lives in service to this country—we ought to be working intensively on the Defense bill. At a time when terrorist networks continue to strike at America's interests, killing innocent civilians in an attempt to intimidate everyone who rejects their violent, extremist agenda, we ought to be focusing sustained attention on ensuring that our military has the tools that it needs, and our country has the policy that it needs, to create a more secure world for our children. And as a part of that effort, we must devote more time and more attention to a realistic assessment of where we stand today in Iraq, and where we should be going.

As my colleagues know, I have submitted a resolution calling for the President to provide a public report clarifying the mission that the U.S. military is being asked to accomplish in Iraq and laying out a plan and timeframe for achieving those goals. The resolution also calls on the President to submit a plan for the subsequent return home of U.S. troops that is also linked to a timeframe, so that we provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely.

My resolution does not dictate deadlines or dates certain. And it does request flexible timeframes for achieving our goals in Iraq rather than imposing any, because building up our military is best and most appropriately left to the administration, in consultation with military leaders. And, of course, any timeframe has to be flexible. There are variables that will affect how quickly various missions can be accomplished. But I do believe a constructive and open-ended military commitment that recognizes our current policy in Iraq is actually strengthening the very forces who wish to do us harm. I am not talking about disgruntled Baathists, although I am concerned that nationalist sentiments in Iraq are growing more difficult for many Iraqis to accept a massive foreign troop presence on soil—something that they think as a humilia-

tion. But, more alarmingly, I am talking about the forces that attacked this country on September 11, 2001. These forces were not active in Iraq before the invasion, but they came once disorder in Iraq took hold. And today, as CIA Director Porter Goss has made plain in testimony before Congress: "Islamic extremists are exploiting the Iraqi conflict to recruit new, anti-U.S. jihadists. Just recently, President Bush told the country that "with each engagement in Iraq, U.S. soldiers grow more battle-hardened and their officers grow more experienced."

Unfortunately, the same is true of the foreign fighters. Iraq has become a prime on-the-job training ground for jihadists from around the world, terrorists who are getting experience in overcoming U.S. countermeasures, experience in bombing, and experience in urban warfare. They may well be getting a better understanding of terrorism than jihadists received at al-Qaida's camps in Afghanistan. And they don't just have skills. They now have contacts. They are building new, transnational networks, making the CIA Director's new report on supporting loosely affiliated franchise-type organizations. Press reports suggest that the CIA is calling this emerging threat the "class of '05 problem."

And some believe that any discussion of timeframes, flexible or otherwise, is basically a code for a "withdraw now" agenda.

Neither of these charges is credible. Just this morning, General Casey spoke publicly—publicly—of the potential to reduce our troop levels fairly substantially by the spring and summer of 2006. I think his comments, and Iraqi Prime Minister Jafari's frank acknowledgement that "the great desire of the Iraqi people is to see the coalition forces be on their way out," are constructive. And I hardly that General Casey is clear on his plan for the subsequent return of our forces. But that is not all that they deserve. They deserve sound policy from elected officials. They don't have that right now. The administration must not leave them in the lurch any longer. Are U.S. forces supposed to be waging a counterinsurgency campaign? Are they supposed to be taking sides in what may be an emerging civil war? Are they supposed to be focused primarily on training Iraqi forces so that the Iraqis can be in the driver's seat when it comes to taking the decisions, and the risks, associated with achieving their own stability? I hope the administration knows the answers to these questions, but until they provide them, all of us are in the dark.

It is also clear that we must not accept a false choice between supporting the status quo in Iraq and the so-called idea of cutting and running. The status quo—staying a rudderless course without a clear destination—would be a mistake. The course we are on is not leading to strength. In fact, I am concerned that the course we are on is making America weaker and our enemies stronger.

The ill-defined and open-ended military commitment that characterizes our current policy in Iraq is actually strengthening the very forces who wish to do us harm. I am not talking about disgruntled Baathists, although I am concerned that nationalist sentiments in Iraq are growing more difficult for many Iraqis to accept a massive foreign troop presence on soil—something that they think as a humilia-
administration’s handling of the war in Iraq. After the shifting justifications for this war, the rosy scenarios that bore no resemblance to reality, and the unreliable declarations of “mission accomplished,” they sense that our policy is adrift. A democracy cannot succeed without confidence in the support of the people. They deserve clarity and candor and so do our troops on the ground.

Finally, I want to talk about the most serious leveled at anyone who invokes the phrase “timetable” in talking about our military deployment in Iraq. The charge goes something like this: if the insurgents know when we plan to go, they will simply hunker down and lie in wait for the time when we are no longer present in large numbers, and then they will attack.

If that were the insurgents’ plan, why wouldn’t they cease all attacks now, lay low, let everyone believe that stability has been achieved, and spring up again once the security presence in Iraq is dramatically reduced? If we really believe the argument that any kind of timetable is a “line in the sand” to the insurgents, then why wouldn’t they try to induce us to throw them that line?

We cannot know all the reasons behind the choices made by the diverse elements waging Iraq’s insurgency. But one thing is clear: Ultimately, we will withdraw from Iraq, and it is not a secret when we do. Does the administration believe that the insurgents will be entirely defeated at that point? Is it really our policy to stay in Iraq until every last insurgent and every last terrorist is defeated? Recently Secretary of Defense Rumsfeld made news when he said that the insurgency could well be entirely defeated at that point. If so, when?

I certainly don’t have all the answers to the complex problem we confront in Iraq. But I know that it’s time to restore confidence in the American people that this President and this administration know where we are going and how we plan to get there. It’s time to put Iraq in the context of a broader vision for our security. It’s time to regain a position of strength. That starts with sustained attention, focus, and debate—and we should be doing that right here in this Congress, right now.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to ask my colleagues to support the Protection of Lawful Commerce in Arms Act. This act has strong bipartisan support. Sixty-one Senators are cosponsoring this legislation. I am very proud to be an original cosponsor of this bill. I thank my good friend from Idaho, Senator Crapo, for his leadership in introducing the legislation and bringing the bill to the Senate floor, managing the legislation and doing an exemplary job.

The legislation we are considering will operate to a significant degree that threatens the viability of a lawful U.S. industry; that is, the firearms industry. An increasing number of lawsuits are being filed against the firearms industry seeking damages for wrongs committed by persons who have misused its industry’s products. These lawsuits seek to impose liability on lawful businesses for the actions of people over whom the industry has no control. Outrageous. Businesses that comply with all applicable Federal and State laws and produce a product fit for its intended lawful purpose, including elk hunting, duck hunting, target shooting, or personal protection, should not be subjected to frivolous suits that the lawsuits demand—to put them out of business. This is an unacceptable burden on lawful interstate commerce. No other law-abiding industry faces this kind of attack.

People in my State are proud of their industry’s contribution to protecting our outdoor heritage. Montanans are avid sportsmen and women. We cherish our right to hunt and fish and enjoy the outdoors. Passing this bill will allow us to protect that right by ensuring that the firearms industry stays in business.

Each year, hunters, shooters spend nearly $21 billion. This, in turn, generates more than 366,000 jobs that pay more than $8.8 billion in salaries and wages and provide $1.2 billion in State tax revenues. In addition, excise taxes imposed on firearms under the Federal Act, also known as the Pittman-Robertson Act, generate critical revenues for State fish and wildlife conservation efforts and hunter safety training. For example, the Pittman-Robertson Act generated more than $150 million in revenue in 2002 alone.

In Montana, hunters and sportmen generated $250 million in retail sales, generating about 5,502 jobs, over $100 million in salaries and wages, and $11 million in State tax revenues—no small matter.

In addition, threats to the U.S. gun industry also pose a threat to the U.S. military. Many domestic gun manufacturers supply the military with necessary firearms. If these companies are forced out of business, the U.S. military must look abroad to arm itself, and we cannot let that happen.

In short, the U.S. firearms industry serves America’s gun owners, serves our sportsmen, and our military very well. It provides good-paying jobs for many Americans. It provides revenues that benefit all Americans. The industry should not be penalized for legally producing or selling a product that functions as designed and as intended. But that is exactly what certain groups are trying to do by asking the courts to step in and micromanage the industry. The Congress and most State legislators have refused to do so.

Let me list some of the demands so you get a flavor of how credible these lawsuits are. Some of these lawsuits would require one-gun-a-month purchase restrictions not required by State law. Others require firearm manufacturers and distributors to participate in a court-ordered study of lawful demand for firearms and to cease sales in excess of lawful demand. If you can imagine, other actions would be required on sales to dealers who are not stock dealers with at least $250,000 in inventory, talking about the small gun
One of the sweeping provisions in the Protection of Lawful Commerce in Arms Act would do nothing to change that or shield the firearms industry from criminal wrongdoing.

At the same time, it is not right or fair to hold law-abiding members of the industry liable for independent actions of third parties who use a firearm in a manner that industry never intended. Why, for example, should the industry be held liable if a member of the industry sells a gun to a lawful customer who is then stolen and used in a crime? That makes no sense.

Again, the fact that a crime occurred is sad and tragic, but that doesn’t mean that the firearms industry is in any way responsible for such a gross misuse of its product. But that is exactly what is happening in some of these lawsuits. This bill would put a stop to that. It is a very short, simple bill with a simple purpose. Nothing is fundamentally at stake here. It is critically important to a vital national industry. We need to pass it, pass it now, as the situation will only get worse. I ask my colleagues to give it their full support.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

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

HEALTH CARE AND COMPETITIVENESS

Mr. BAUCUS. Mr. President, every few minutes, a new Chevy Malibu, a popular family sedan, rolls off the assembly line of General Motors Corporation’s Fairfax plant Kansas City, KS. The invoice price starts at $17,600. And every few minutes, across the ocean, a new Toyota Camry, a popular family sedan, rolls off the assembly line of the Toyota Motor Corporation plant in near Nagoya, Japan. The invoice price starts at $18,600, a full $1,000 less than the Malibu.

One reason for the price difference between the Malibu and the Camry is health care. Yes, health care. For GM, health care costs amount to more than $1.5 billion a year. For Toyota, health care costs account for closer to $500 for every vehicle that it produces. That is about the thousand dollars difference.

Two-thirds of Americans get their health insurance at their jobs. The system started in World War II, when the Government capped wages. Employers competed for workers by offering more generous fringe benefits. After the war, a Government tax preference further encouraged employers to provide health insurance.

Almost all Japanese get their health insurance through their government. That is true of pretty much every other major country.

America’s system has yielded high health care costs. The average American spends more than $5,000 a year on health care. That is 53 percent more than the next most costly country. The average Japanese spends only about $2,000 a year on health care.

Last year, GM paid $3.6 billion in health care costs for about 450,000 retirees and their spouses. When GM workers retire, GM continues to pay much of their health care costs as part of the worker retiree benefits plan.

This year, 1,200 Japanese Toyota employees will retire. Within 2 years, pretty much every one of them will switch from Toyota’s health insurance plan to the Japanese national plan. At that point, Toyota will pay absolutely nothing in health care costs for those 1,200 retirees and their spouses.

General Motors provides far more medical benefits than any other private entity. GM covers 1.1 million Americans, including workers, retirees, and their families. Last year, GM paid for more than 11 million prescriptions for its hourly workers.

Premiums for health insurance have increased 15 percent or more in many years. GM expects that its health care bill will go up $1 billion this year, to a $8 billion total. That is a year. Last year, GM spent $1.4 billion on prescription drugs alone. Last year, GM put $9 billion into a trust fund to pay for health care costs.

Remember when those retirees leave Toyota, they do not cover the health care costs. The government does it in Japan.

In the late 1970s, GM controlled nearly half of the American car market. Since then, competitors such as Toyota, Nissan, and Honda have cut GM sales to about a quarter of the American market.

In the fiscal year ending March 2004, Toyota earned $10 billion in profits. GM has now been losing money for three quarters in a row. GM lost more than a billion dollars in the first quarter of this year alone.

Toyota is making nearly $1,500 a car in profit. GM is losing more than $2,900 per car.

Now, part of the blame for GM’s declining market share lies with GM’s inability to adjust to change. In the wake of the OPEC oil embargo, Japanese compact makers flooded American markets with fuel-efficient cars to American families. But OPEC imposed its oil embargo more than 30 years ago, and Japanese car companies still lead the way in energy-efficient cars. Today, only Toyota and Honda mass produce fuel-efficient hybrid sedans.

But part of the blame also lies with the American health care system. Carrying the burden of health care costs handicaps American companies in their race for global markets.

Americans are smart. Americans work hard. But American manufacturers cannot compete with foreign manufacturers when American companies have to bear the extra load of these health care costs.

You might think that because Americans pay more for health care, well, at least we get better health care. But we do not.

The average American does not have better access to health services. Forty-five million Americans lack health insurance. Fifteen percent of our population is uninsured. Japan offers better...
access to the dialysis and diagnostic image services—MRIs and so forth—than America does.

Nor do we have better outcomes. That is a fancy term for saying our people are not healthier after they see a doctor and go to the hospital. We are not. The average American woman can expect to live to age 79. The average Japanese woman can expect to live 5 years longer, to age 84. People can expect to live longer in Canada, France, Germany, Sweden, Switzerland, and all of these countries spend less per person on health care than we do.

America’s fragmented system yields high administrative costs. In 2003, administrative costs accounted for nearly a quarter of American health care costs. That is $400 billion—a quarter of what we spend on health care.

America is the only country in the industrialized world without a national health system. We do not have a single-payer approach like Canada, Britain, or Switzerland. Instead, we have a system of uncoordinated payers, from private insurers to Medicare, from employers to State Medicaid programs. It is very uncoordinated, very diverse.

America’s massive $2 trillion health care bill ought to buy more. America’s health care system needs serious reform.

National health care reform appears unlikely any time soon. But we have at our disposal—Congress can act—the means to attack some of the most glaring inefficiencies in our health care system and reduce unnecessary costs.

We can improve health care by facilitating the use of health information technology. We can improve health care by tying payment to the quality and value of care, rather than just spending on whatever services the doctors and hospital provide, irrespective of the quality and the outcome.

By encouraging investment in health information—technology, computers, interoperability, getting rid of the paper—we can reduce unnecessary administrative costs, and we can enhance patient safety and clearly improve the quality of care.

Let me explain. America often invents new medical technologies. We often adopt new medical technologies early. We are leaders in the areas of drugs and devices, pills and procedures, scientific research.

But we have not complemented this innovation with the proper use of health information technology. The staggering cost of administering America’s pen and paper system of health care claims prices the point. America’s health care transactions still rely on paper claims. That is according to health economist, Ken Thorpe of Emory University. These claims can cost from $5 to $20 each.

But a health care claims electronically can cut those costs to as little as 50 cents each. Professor Thorpe estimates that requiring automated claims processing would save the Federal Government nearly $80 billion over 10 years. Significant savings would also accrue to the private sector, if it fully automated claims.

And proper use of health IT can prevent unnecessary medical errors, hospitalizations, and other health care services.

Each year, about 7,000 Americans die because of errors in administering their medication. I also had a figure—that nobody—that the equivalent of two TSA’s crashing today is the number of Americans who die today because of medical errors. That is many more than people who die of gun deaths or in traffic accidents. The equivalent of two TSA’s crashing every day is the number of Americans who died on account of medical errors—not bad outcomes but medical errors.

Technology can help ensure that medical professionals give the right drug to the right patient at the right time. We can help to do that by putting bar codes on all drugs, and by using health information technology to link medication administration to a patient’s clinical information.

This ability to exchange clinical data among providers often causes duplication of diagnostic tests. Clearly, if you take somebody in Montana who goes on vacation in the great State of Louisiana and gets ill—maybe has a heart attack—and you go to the hospital, or goes to the emergency room, that doctor looks at the Montanan, administers some tests, and has no record of the Montanan who happens to be there on vacation—no idea what is going on. He has to start from scratch and run all these tests all over again. Clearly, it is unnecessary duplication. Just think how much more efficient we would be if that Louisianan doctor in that hospital could push a button and find out exactly the record would be available. Clearly, it could protect the right of privacy and confidentiality, but just think of the savings that can be made. Think of how much better the health care would be to my Montanan in Louisiana. We could help make it easier for one doctor to pull up that x ray that another doctor took a week before. Duplication is eliminated and the quality of care clearly improves.

Medicare is the dominant care in America’s health system, but Medicare at best neutral and at worst negative toward quality. Medicare pays for the delivery of a service; Medicare does not pay for the achievement of health. And we see the effect. Patients receive recommended treatments only about half the time, and more care is often not producing better care.

Among the 50 States, levels of cost and quality vary greatly. In my home State of Montana, for example, Medicare spends about $10,000 per beneficiary. Quality of care ranks near the top. By contrast, some States spending around $7,000 a year per beneficiary—$2,000 more—have quality that ranks near the bottom. That is not the case in Montana, with its higher proportion of primary care practitioners, often produce lower costs and better quality. Less expensive care, when concentrated and patient centered, can do more for a patient than high-cost services.

I have introduced a bill with my colleagues, Senators Grassley, Enzi, and Kennedy, that will build value into the
way Medicare pays for its services. The Medicare Value Purchasing Act of 2005 will provide higher Medicare reimbursements to providers who show they are working to improve the quality of care they deliver.

Together, these two bills I mentioned form a package. This quality bill goes hand in hand with the health IT bill I just mentioned. Together, they will help improve American health care and help keep American businesses competitive.

In his recent book about competitiveness, “The World is Flat,” Tom Friedman talks about the need to strengthen what he calls the “muscles” of the individual American worker. Part of the solution to global competition, he says, lies in ensuring that the American health care system provides our workers with access to health care services without placing them or their employers in financial jeopardy. That means congressional action on health quality and health IT, and it means congressional action on health IT. I stand ready to work with my colleagues to realize that goal. Until we act, health care costs will continue to make America less competitive. Until we start investing in health IT, we risk falling further behind. And until we start paying for health care quality, we risk slowing our progress to a better future.

A little more than a century ago, in 1903, a man named Henry Ford established the Ford Motor Company in Detroit, MI. That same year, a man named Orville Wright became the first person to pilot an airplane in powered flight. Americans have been at the forefront of transportation ever since. In 1929, the Duesenberg J, a premier luxury sedan, began rolling off the assembly line. The price was exorbitantly high—$13,000.

In 1994, the Duesenberg J, a premier four-door luxury sedan, began rolling off the assembly line. The price was exorbitantly high—$13,000.

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In 1929, the Duesenberg J, a premier luxury sedan, began rolling off the assembly line. The price was exorbitantly high—$13,000.
Mr. CRAIG. Mr. President, I do appreciate the Senator's effort, but at this time, until we have effectively reviewed the amendment, I object.

Mr. DORGAN. Mr. President, late this evening or perhaps tomorrow morning, there will be a vote in the U.S. House on something called the Central American Free Trade Agreement, which passed in the Senate by a very narrow margin. The estimate is that the votes do not exist to pass this agreement it in the House.

Lord knows how many bridges and highways have been promised in the last 48 hours, and it may very well be, at midnight tonight, magically the votes will pass. But this trade agreement will appear and we will have miles of highways and all kinds of bright bridges built in this country in order to persuade waverering House Members to vote for this awful trade agreement which will be one more chapter in a boom of failed trade strategy and will mean more Americans will lose their jobs.

Incidentally, there are some people today from the textile area of this country saying there will be some changes in CAFTA to protect the textile industry, which presumably would require some other legislation to be passed to implement these changes.

Let me just say to anybody who thinks there are going to be any changes to this, there will be nothing coming through this Senate that will not be slowed down to the nth degree, and we will try in every way possible to block it. But also if anybody promises you will do something in a trade agreement, don't believe it, it is not worth the paper it is written on.

I have papers in my desk going all the way back to the United States-Canadian Free Trade Agreement, that have promises in writing from the Trade Ambassador, Clayton Yeutter, that didn't mean a thing, wasn't worth the paper it was written on. The same is true with sugar and sweeteners in Mexico. It could go on and on.

My hope is that those few who have been promised the Moon with respect to some changes for the textile folks will not swallow that minnow tonight.

(Mr. CRAIG assumed the Chair.)

I hope they will vote against CAFTA, and I hope the CAFTA trade agreement will be defeated. Let me say why. Similar to all the other trade agreements, it sets us up for losing more jobs.

I am going to talk about a company I have spoken about a number of times on the Senate floor, but there is new news about a company which is that brings me to the floor at a time when we are all talking about international trade. This company is kind of a poster child for what is going wrong in our economy. It is called the Huffy Bicycle Company.

Now I have talked about this company before, and the reason I come to the floor tonight is there is new news about Huffy. Every time the Huffy Company makes a lot of bicycles. At one point in one plant I believe they were making 19,000 bicycles a day. Huffy Bicycles had a substantial portion of the bicycle market in our country. They could be bought in Wal-Mac, Target, and Sears. Everybody remembers Huffy Bicycles. They can be found in most of our communities.

The problem is, Huffy Bicycles left this country. Their first plant in Dayton, OH dates back to 1898. They made bicycles under the brand name of Huffy for many decades. In fact, between the handle bar and the front tire they had a little emblem on it that had the U.S. flag. When Huffy escaped our country, as have so many companies, to produce their goods in a foreign country, they replaced the flag with a little decal of the globe.

I am told it was the last job that the U.S. employees had when that company moved its jobs to China. They had to take the existing inventory of bikes and change the U.S. flag on the bicycle to a globe.

Well, let me talk about the production plant in Celina, OH. This was the headline in the Dayton Daily News, June 29, 2005. Now I told my colleagues that Huffy Bicycles are not made in America any more. All the folks that work for Huffy lost their jobs because these jobs are now in China. Here is what happened last month: Huffy Corporation, a 117-year-old bicycle and sporting goods company, on Tuesday, announced it wants to quit paying pension benefits and become a Chinese-controlled company.

Let me read that again. Huffy wants to quit paying its pension benefits and become a Chinese-controlled company.

So how did that come to pass? Well, in 1998, the company celebrated its 100th anniversary by laying off 1,800 workers from its three plants. The jobs were outsourced both to Mexico and a company located in the very same Chinese city in China but sold in America. Now, Huffy Bicycles, this sporting goods company, which is guaranteed, of course, by the American taxpayers.

The letter says: Your retirement benefits will not be affected by this action, but after it states that retirees will receive their full pension benefits, it says some may lose benefits. That is the fine print. As I said, I recently spoke to a former Huffy employee. The reason I am talking about this company is that it is symbolic of so many companies in exactly the same position. He told me that there are many people who worked a lifetime for Huffy, and now they are worried sick. They earned a pension because they worked every day, came to work every day, liked the work they did, and now they are worried sick.

The company's workers,
The workers at the Celina, OH, plant took a 30-percent wage and benefit cut to keep their jobs at one point, only to have Huffy decide it did not matter.

The Huffy worker whom I spoke to yesterday told me something poignant. He said that when he left the plant last year to drive in from the parking lot full of shoes, Workers wanted to tell this company that they had worked a lifetime for that company and loved their jobs. They wanted to say to that company: You are not going to find people to fill our shoes, you just will not find people to fill our shoes. You can find people who will work for 30 cents an hour. You can find people whom you can fire who want to join a labor union. You can find people whom you put in a plant working 15 hours a day, 7 days a week, but you will not find people who will fill these shoes.

Another worker who worked at the Celina plant was Ruth Schumaker. I did not know Ruth Schumaker, but I came across her name when I began looking at this case—I looked at many cases, Fruit of the Loom, Levis, Fig Newton cookies. I can talk forever about these companies who have left our country and taken their production elsewhere—Ruth Schumaker was one of those employees who made bicycles. She had been paid $12 an hour. She worked 28 years and was very proud of her job. When she was told she was going to be laid off, she was going to lose her job because it was going to China, she was not able to retire because she still had many costs to deal with.

The only job she could find at that point was a part-time job at $7 an hour at the bottom bar at the Holiday Inn. Her daughter said she never quite got over the stress of losing that job. Ruth died 2 years ago of cancer.

At the time they closed this plant, by the way, and moved these jobs to China and laid off Ruth and the last car left that parking lot with shoes in the parking spaces saying you will not fill these shoes, the CEO of that company was paying himself $771,000 a year. And, oh, by the way, Wal-Mart has expanded its business. A Wal-Mart supercenter has been built on 50 acres that used to belong to Huffy. So it comes full circle.

I talk about Huffy only because of this news, this venerable old bicycle company with workers built by American hands that were proud of their jobs, announces that it wants to become a Chinese company after having moved all of its production to China. I have 33 pages—single-spaced, front and back—of information from the Department that describes jobs lost in this country this year by companies that have certified to the Department of Labor, so their employees can get trade adjustment assistance, that they have moved certain jobs overseas or that certain jobs have been displaced by overseas trade. I have 33 pages—front and back, single-spaced, in small lines—of the names of the companies and the names of the plant. That is just since the first of this year.

The question is: Does anybody care? The answer likely is, not people who matter, not people who can affect the outcome of this, certainly not this Senate and this Congress, and this President. This Senate said, let us just keep doing this. Let us continue to give tax breaks to companies that move their jobs overseas. Let us keep rewarding those who fire American workers and move those jobs overseas. Let us say to the American worker, you ought to have to compete against 30-cent-an-hour labor, you ought to have to compete against people who work in unsafe plants and are put in jail if they try to join a labor union.

Tonight there will be a vote in the House on CAFTA, and likely the message coming from the House will be, let us do more of the same. My colleagues from the Senate and I have said the following, and former Congressman Stenholm always used to talk about the law of holes: When you find yourself in a hole, you ought to stop digging. But that does not seem to be the case with this Congress and international trade.

It is obvious to everyone this is not working. We have the biggest trade deficit in the history of this country. We have massive job loss. We have jobs that are moving outside of this country very quickly, and when American workers can find a job to replace the job they have lost, in most cases, they find a job paying 75 or 80 percent of their former income.

The question for our kids and their kids is what kind of a country will they inherit? We fought for a century to give our kids the right to the Pledge of Allegiance. We fought for a century to give our kids the right to the Pledge of Allegiance, and talking about real Americans who do not know what the Pledge of Allegiance says, and former Congressman Stenholm always used to talk about the law of holes: When you find yourself in a hole, you ought to stop digging. But that does not seem to be the case with this Congress and international trade.

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Mr. CRAIG. Reserving the right to object, I know the intent of the Senator from Virginia is to file an amendment at the desk and not usurp the position of the current amendment that is before the Congress. I would have to ask the Parliamentarian as to the priority of that amendment.

The PRESIDING OFFICER. The pending amendment can only be laid aside by unanimous consent.

Mr. CRAIG. The Senator does not have to lay the pending amendment aside to file an amendment?

The PRESIDING OFFICER. No, he does not.

Mr. CRAIG. I would object to the laying aside of the pending amendment, which would not restrict the Senator's right to file an amendment at the desk and speak about it.

The PRESIDING OFFICER. The amendment may be submitted for the Record.

Mr. WARNER. Mr. President, I so amend my request to the Presiding Officer for the purpose of filing the amendment. I marvel at the parliamentary maneuvers of this bill. Perhaps if I had done something similar, I would now be on the Defense bill. But nevertheless, we are where we are.

Mr. President, I rise to offer an amendment, but I will file it at the present time and hope at some point I can be recognized for the purpose of having this placed into the queue.

The PRESIDING OFFICER. The Senator can be recognized to discuss his amendment at this time if he so desires.

Mr. WARNER. I thought I made that request to the Chair. I failed to communicate. I now make that request.

The PRESIDING OFFICER. The Senator is recognized to discuss his amendment.

Mr. WARNER. From the outset, let me make it clear I have long been a supporter of tort reform. I believe the proliferation of baseless lawsuits and runaway jury awards is having a profound negative effect on many Americans, and indeed on the American economy. For these reasons I was a strong supporter of the Class Action Fairness Act that was signed into law earlier this year. I also support reforming the asbestos litigation system and I support medical malpractice liability reform.

However, in my view, measured, balanced tort reform is necessary to protect the manufacturers. Indeed, throughout history Congress has responded to very real problems in our tort system by passing reasonable tort reform measures. In 1994, Congress passed the General Aviation Revitalization Act. The law does not bar lawsuits altogether against the airline industry. Instead, it bars any product liability suit against a manufacturer involving an airplane that was 18 years old with fewer than 20 seats.

I remember that legislation as if it were yesterday, to the everlasting credit of one of my classmates, who joined when I came into the Senate 20-some odd years ago, Nancy Kassebaum. She was the author of that historic breakthrough in tort reform as a Senator.

In 1996, Congress passed the Bill Emerson Good Samaritan Food Donation Act. This law, which was intended to address the legal uncertainties that prevented food donation, provided limited immunity to certain individuals who are involved in the donation of food. In 1994, there were warnings from Virginia, DC, and Maryland area. In particular, this bill would have prevented the victims and their families from ever having their day in court, to sue a gun dealer, from which the snipers John Allen Muhammad and John Lee Malvo illegally received their weapon.

The facts surrounding this gun dealer continue to amaze me. According to reports, the DC area snipers “stole” a gun from this particular gun dealer in Washington State who had lost over 200 guns in the previous 3 years.

I say those words “lost” or “stolen” carefully, because I am not sure how any legitimate, law-abiding dealer can lose or have stolen from its possession over 200 guns. But those are the facts that were developed in this case.

In view, my gun dealers such as this one, which at best have an established history of irresponsibility of securing its firearm inventory and at worst have a record of illegal activity, again who they sell their guns to, ought not to have the blanket immunity as provided in this bill.

I can understand the need to protect responsible gun dealers from frivolous lawsuits. I join those in seeking that effort. After all, if a gun dealer is selling legal products to people legally entitled to buy weapons, then the dealer has done nothing wrong and should not be legally held responsible.

Indeed, in my view, the vast majority of gun dealers in America are faithfully abiding by the law. They are deserving of protection, and I would like to support the provisions of the bill that try to give that protection.

But we need to make sure this bill does not immunize the irresponsible behavior of a gun store such as the one in Washington State. How do you “lose” or “have stolen” more than 200 weapons? In my view, gun dealers who have established histories of illegal activity or stolen weapons should not be immune from lawsuits when such a weapon is used to commit a violent crime. To give these dealers immunity in these cases is to give them a completely free pass from having to exercise any type of responsibility for the securing or accounting for their weapons. That is plain wrong.

Accordingly, the amendment I am offering tonight would make it absolutely clear that victims of these types of crimes would be absolutely able to pursue their cases against those very few irresponsible or unscrupulous gun dealers in America. My amendment
Mr. WARNER. Yes, of course. I would ask the Parliamentarian if they would look at the amendment to determine whether, should cloture be filed, it would be a germane amendment.

The PRESIDING OFFICER. The amendment will be reviewed for the Senator.

Mr. WARNER. Which is to say that at this point in time I cannot obtain such ruling; is that correct?”

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Then I yield to the Senator.

Mr. WARNER. Washington State dealer.

Mr. CRAIG. Washington State dealer the Senator referred to—you, there are no gun dealers in Washington, this city—those were actions in violation of the Federal firearms law. And of course the question is the administering of the law, and clearly that amendment does so.

But I have seen the amendment in quick glance, will review it to see if there can be some accommodation here, I know the intent of the Senator. It is intent in good faith to do exactly what he said and that is exactly what we want done. We do not want those who are under the umbrella of a federally licensed dealer to in any way misuse that firearm and not to be prosecuted for the misuse of that law.

That is the intent here. It is the frivolous lawsuits that we are attempting to block. We have been very clean and specific in the language of the bill. We have even refined it over last year in a way that I hope the Senator might be able to support it along lines that I think it clarifies a complicated situation that is currently before manufacturers and licensed dealers.

Mr. WARNER. Mr. President, I will look at the Frist amendment.

Mr. CRAIG. I thank the Senator.
Mr. CRAIG. Mr. President, I think if Senator REED is ready, I am ready to propose a unanimous consent request.

Mr. REED. I am. Go ahead.

Mr. CRAIG. I should say, yes, I would amend that unanimous consent to say Thursday, not Wednesday.

Mr. REED. I think the Chair heard that.

Mr. CRAIG. The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I think the Chair hears none, and it is so ordered.

Mr. REED. If the Senator wishes to make brief remarks, then I would put the Senate in morning business.

Mr. CRAIG. Mr. President, I will bring up the amendment numbered 1626. For the Senate from Rhode Island [Mr. REED], for Mr. KOHL, proposes an amendment numbered 1626.

The amendment is as follows:

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun)

At the end of the section 922, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the ‘‘Child Safety Lock Act of 2005’’.

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent authorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

‘‘(z) SECURE GUN STORAGE OR SAFETY DEVICE.— ’’

'(A) the manufacturer for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, division, or political subdivision of a State, of a handgun;

'(B) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether or not on duty);

'(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to subsection (1)(viii); or

'(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 922(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the time in which the handgun is transferred to the transferee a secure gun storage or safety device for the handgun.

'(2) LIABILITY; EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) or title 18, United States Code, as added by this subsection.

'(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action for a penalty under section 929(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

'(D) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

Mr. REED. I thank the Chair.

Very briefly, this amendment is a very important one related to safety for children with respect to firearms. There are more than 10,000 accidental shootings a year in this country, and many of these shootings result in the senseless deaths of children, and many of those accidental deaths do not fully take into account the violence because, in addition to that, there are many young people who tragically use a firearm to take their own lives. So we are very, very much at a shocking level, with nearly 3,000 children, young people, die each year from gun-related injuries. And this recitation of numbers is not only
grim but to all of us, I believe, unacceptable and particularly painful to families who must bear this terrible loss.

This legislation is simple, straightforward, and effective. I must commend Senator Kyl for his leadership and for his persistence in pursuing this legislation. It mandates that a child safety lock device or trigger lock be sold with every handgun. Most locks resemble a padlock that locks around the gun trigger and immobilizes the trigger. It is not very effective. These and other locks can be purchased for every gun for less than $10 and thus used by thousands of gun owners to protect their firearms from unauthorized use.

This approach is supported by a huge number of individuals. In fact, this Senate has gone on record previously overwhelmingly supporting this amendment. Polls have shown that 73 percent of the American public supports this amendment, including 6 out of 10 gun owners.

This legislation is not only well meaning and well intended, but it could be very effective if we adopt it. I am pleased to see we are now moving to consider it. I am delighted that tomorrow morning we will get a chance for further debate and a vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank Senator REED for his cooperation and effort today as we work our way through this legislation. Several amendments that had been brought to the floor with an attempt to offer them we are looking to see if we can work with our colleagues in acceptance of them. We have a broad base of support for the underlying legislation, and we want to be able to sustain that support as we go into final passage.

Mr. WARNER. Mr. President, I have now had the opportunity to review the Frist amendment, No. 1606. This amendment simply restates that the Attorney General of the United States can continue to enforce current Federal firearms laws against those who violate them, including dealers. In my view, nothing in S. 397 would prohibit the Attorney General from going forward in those matters. Nevertheless, at this time, I have no objection to restating that authority, as proposed in amendment No. 1606.

In my view, though, amendment No. 1606 does not address the circumstances that my amendment seeks to remedy. The Attorney General has always had the authority to enforce its gun laws yet some dealers continue to act irresponsibly. My concern is that the provisions of S. 397 would completely immunize from lawsuits those irresponsible dealers who have an established history of repeatedly losing guns or have an established history of fire-arms being stolen again and again from their inventory. If enacted without my amendment, S. 397 could cause the relatively small number of irresponsible gun dealers to grow, not shrink.

My amendment is precisely aimed at these irresponsible and unscrupulous gun dealers who repeatedly lose firearms and have firearms stolen from their inventory. This is exactly what happened in the DC area sniper case. The snipers, both of whom were not allowed under the law to purchase a firearm, apparently stole their weapon from a gun store in Washington state that had previously lost or had stolen more than 200 weapons over a short period of time. When a gun dealer has an established history of lost or stolen guns and that lost or stolen gun is used in the commission of a serious crime that causes death or injury, it is a grave inequity to lock those victims out of the courthouse doors.

While I have no objection to amendment No. 1606, it clearly does not address the very real problem remedied by my amendment.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak up to 10 minutes each.

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

Mr. CRAIG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

PENSION REFORM

Mr. WYDEN. Mr. President, there has been a significant development in private pension law this week, and I have come to the floor to discuss it briefly because this is something that will be of enormous interest to working families across the country who, of course, have been reading for months now about their pension plans going belly up. These are workers who work hard, play by the rules, hope to have a dignified retirement and have understood that Social Security was never going to cover all of their retirement security needs. So they have sought to have a private pension, and companies across this country have given them the impression—false, in a number of instances—that their private pension would be secure and there for them when they retire.

One of the aspects of this whole challenge, with respect to pension security, has been to eliminate what I believe is a double standard today in private pension law. There is in fact a double standard in private pension law because so often the executive retirement benefits get hidden in a lockbox while the workers try to figure out how to make ends meet when the company files for bankruptcy and terminates the pension plan.

What we have done, on a bipartisan basis in the Senate Finance Committee, is to say that that double standard, the standard that protects the executives while it clobbers the workers, will no longer be tolerated under our private pension statutes.

As a result of a change that a number of our colleagues worked on, which was backed by Chairman GRASSLEY and Senator BAUCUS, if this provision that we have developed becomes law, if a company pension plan is funded at less than 80 percent, then the executive pension cannot be protected. It is the ruse of being "deferred compensation." That is what we have seen come to light in the last few months, that somehow the executives walk away with millions of dollars worth of pension benefits under the guise of it somehow being something called deferred compensation while the workers end up seeing their pensions disappear by 40, 50, 60 percent.

This provision, in my view, is extremely important because it will prevent companies whose pension plans are at risk of going under from protecting the executive pension while allowing the employees' pensions to sink like a stone.

An example of this would be a flight attendant from Tigard, OR, who gave United Airlines 16 years of service, saw her pension fall recently to a net of $138 a month, while the CEO of United is going to continue to receive $4,5 million. Now, of course, the CEO claims it is not really a pension, that this was compensation worked out before the executive came to United. But I can tell you that elderly woman in Tigard, OR, would sure like to have what the United executive has, regardless of what it is technically referred to under pension law.

A lot more needs to be done to ensure that the executives are not going to reap these huge gains at the expense of their workers. Captain Duane Woerth of the Airline Pilots Association said it well, in my view, when he said, "While thousands of pilots will retire with only a fraction of the pension benefits they earned and expected, airline executives can look forward to retirements knowing that their nest eggs are solid gold." This was reported in Fortune magazine. And there are numerous other examples where generous executive pensions have been protected at the expense of the workers' retirement.

In March of 2002, for example, US Air CEO Stephen Wolf took a lump-sum pension payout of $16 million, including benefits, for 24 years of service that he never actually performed. Six months later, the company filed for bankruptcy and terminated its pilot pension plan, leaving the Pension Benefit Guarantee Corporation with $2.2 billion in liabilities. Where is the fairness in all of that? The executive takes this huge golden parachute away while the workers try to figure out how to make ends meet when the company files for bankruptcy and terminates the pension plan.

Three months before United filed for bankruptcy in 2002, the company...
placed $4.5 million in a special bankruptcy protected trust for their CEO, Mr. Glenn Tilton. United then terminated all of its pension plans in 2005, leaving the Pension Benefit Guarantee Corporation with $5.6 billion in liability.

In 2002, the Motorola Company chose to not make any contributions to its pension plan for 70,000 employees and retirees, a plan that was underfunded by $1.4 billion. At the same time, Motorola found another $36 million to give its top executives a variety of pension perks.

In 1999, IBM’s cash balance conversion resulted in dramatic pension cuts for the older workers. It is still being litigated in the courts, but in 2002, IBM CEO Lou Gerstner, who oversaw the cash conversion, retired with a pension of $1.1 million per year.

In November of 2002, Delta began phasing out its traditional defined benefit plan for 56,000 employees and replaced it with a cash balance pension plan. As Delta was shorting its workers’ benefits, their former CEO got a generous guaranteed pension plan of $1 million per year that will be available to him when he turns 65.

These are a few examples. Mr. President, of excessive executive generosity, and they have been particularly egregious in the airline sector, where there have been numerous threats of bankruptcy and actual problems with respect to keeping the workers’ pensions intact or even a portion of them secure.

I am pleased the Finance Committee took a significant first step yesterday toward cutting off this corporate spigot of dollars for executive pensions but produces less than a trickle of funds for tens of thousands of hard-working Americans. There is more to do.

Certainly the first step that began yesterday is the Finance Committee at ending this double standard came about because Chairman Grassley and Senator Baucus worked in a bipartisan fashion, and Senator Bingaman, Senator Kerry, Senator Schumer, and others joined me in pressing for this change. But suffice it to say there is more to do in this area. Certainly the question of what companies are required to do in terms of making their premium payments is important. In the days ahead the Finance Committee and eventually the Senate as a body will have to take up these issues.

What I wanted to bring to the Senate’s attention today is that this is an important start. It is a start that keeps faith with American workers who have come to my townhall meetings. The Presiding Officer is from Georgia and represents a number of workers affected by the financial problems of Delta Airlines. People come to our townhall meetings and ask, how is it that the executives can somehow benefit from the bankruptcy proceedings, and I am tired of seeing how the executives always come out hunky-dory while the workers end up trying to figure how to make ends meet when their pensions have been slashed by 40, 50, or 60 percent.

There is more to do in terms of reforming private pension law, but this effort to eliminate the double standard protected and workers get hurt, but eliminating that double standard is at the center of what good bipartisan pension reform ought to be all about. Fortunately, the Senate Committee on Finance took a big step in the right direction by saying yesterday that if a company’s pension plan is not actually funded, then the executives cannot find their way to yet another lockbox and protect themselves with these deferred compensation arrangements.

I yield the floor.

TRIBUTE TO JERMAIN TAYLOR

Mrs. LINCOLN. Mr. President, I thank my colleagues for allowing me to take a few moments for an important recognition for Arkansans. Today I rise to pay tribute to two very distinguished Arkansans, first to the new and undefeated, undisputed middleweight champion of the world, Jermain Taylor.

Jermain Taylor’s skill in the boxing ring is only one reason for me to recognize him on the Senate floor. Jermain is one of boxing’s rising young stars.

He is known for his skill and his power in the ring, but he is also known for his grace and humility outside of the ring.

On July 16, Jermain, a Little Rock native, thrilled the people of Arkansas when he leaped into a ring in Las Vegas, NV and took the middleweight championship of the world from Bernard Hopkins.

Jermain’s victory that night was the culmination of a lifetime of hard work and sacrifice that began when he was just a small boy. When Jermain was 5, he had to take on the responsibility of being the man of the house after his father left the family.

Even at that young age, he took responsibility for his younger sisters without hesitation.

At the age of 13, he made his way into Ozzell Nelson’s gym and, though he lost his first sparring session, he enjoyed the challenge and believed he would improve, and he could improve with hard work.

He did, and in 1996 he won the U.S. Under 19 Championships. In 2000, he won a bronze medal while representing his country in the Olympic Games held in Sydney, Australia. Shortly thereafter he began his pro career.

By all accounts and by every measure, Jermain Taylor is a great fighter, but he is an even better person. He has been described as humble, determined and one who knows that family comes first.

In short, he embodies the best of what being an Arkansan is all about.

He is a self described country boy who tried to give back. Those lessons were not lost on Jack Stephens. His parents A. J. and Ethel taught him the values of self-reliance, diligence, integrity, and hard work. His father once told Jack, “Success is not a destiny to be reached but the quality of the journey we make.”

After attending public schools in Prattsville, AR, and graduating high school from Columbia Military Academy in Columbia, TN, Jack Stephens became a 1947 graduate of the U.S. Naval Academy. For the rest of his life, he remained close to many of his Naval Academy buddies, particularly ADM William Crowe, Ambassador Vernon Weaver, and President Jimmy Carter. He never forgot the important value of the education at a service academy and, more importantly, his service to this great Nation.

After finishing up at the Naval Academy, Jack joined his brother Witt Stephens at his financial company, Stephens Inc. He was one of the country’s most premier investment banking firms, the largest off Wall Street.
In recent years, Jack has been recognized for his philanthropy. He once told a reporter there are only two pleasures associated with money: making it and giving it away.

For over 20 years, Jack has been the principal funder for the Delta Project, a program designed to assist and educate underprivileged children in Arkansas’s delta. He also supported the City Educational Trust Fund. For 20 years, the trust fund has provided scholarships for students and incentive awards for fine teachers.

Jack also gave $48 million to the University of Arkansas for Medical Sciences. The money was used to build, equip, and support the Jackson T. Stephens Spine and Neuroscience Institute.

In 1997, he gave $5 million to support First Tee, a program designed to allow underprivileged children to learn about and play the game of golf. He viewed First Tee as a teaching tool for children, that the lessons of patience, respect, and following the rules the game of golf teaches could be used in any area of a child’s life and, more important, provided them the life skills they needed to be a success in the future.

He also served from 1991 to 1998 as the fourth chairman of the Augusta National Golf Club, home of the Master’s Golf Tournament. Jack also gave about $30 million to the University of Arkansas at Little Rock to pay for a new center that will be used for basketball.

In closing, I want to say a word about the character of Jack Stephens and the men and women of his generation. Jack came from a time when Arkansans believed in the spirit of Arkansas. We in Arkansas believe in ourselves. We believe in our family and our family of Arkansas people. We believe in our dreams and the things we can accomplish when we work hard and we reach out to one another.

Men such as J. B. Hunt, Sam Walton, John Tyson, Witt Stephens, and Jack Stephens believed in the values they were taught in Arkansas and knew that the best place to build a business was right there in their own backyard.

All of these men along with Jack Stephens, nurtured and invested in the businesses and the people of their great State of Arkansas, knowing full well that Arkansas, Arkansas’s hard work, its efforts, could be marketed all across the globe.

In the 1980s, Jack Stephens was one of the first to venture and look toward places in the East where investments could be made and relationships built for future of the global economy in the 21st century. They set a high standard for all of Arkansas to follow. Many of us look to the image of Jack Stephens to know of the success that can happen in Arkansas.

My thoughts and prayers go to the family and friends of Jack Stephens this week, as we celebrate his wonderful life and cherish the moments that were spent with him. The people of Arkansas can all be proud of Jack Stephens and the life he lived. He contributed mightily to the well-being of our State and to its people, all because he never forgot where he came from. I am sure the entire Senate will join with me as I honor the well-lived life of Jackson T. “Jack” Stephens.

TECHNICAL EXPLANATION OF H.R. 6


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


A. ENERGY INFRASTRUCTURE TAX INCENTIVES

1. Natural gas gathering lines treated as seven-year property (sec. 1301 of the House bill, the conference agreement, and sec. 166 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service in the modified Accelerated Cost Recovery System is based on the “class life of the property.” The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Revenue Procedure 87–56 includes two asset classes either of which could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0 describes pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. Asset class 13.2 describes assets used in the exploration for and production of petroleum and natural gas deposits, provides a class life of 14 years and a depreciation recovery period of seven years. The uncertainty regarding the appropriate recovery period of natural gas gathering lines has resulted in litigation between taxpayers and the IRS. In each of three recent cases, appellate courts have held that natural gas gathering lines are: (a) an interconnection with an interstate transmission line, (b) a gas processing plant, (b) an interconnection with an interstate transmission line, (c) an interconnection with an intrastate transmission line, or (d) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

Effective date.—The House bill provision is effective for property placed in service after April 11, 2005.

B. GAS TRANSMISSION AND DISTRIBUTION

The applicable recovery period for assets placed in service in the modified Accelerated Cost Recovery System is based on the “class life of the property.” The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Natural gas distribution pipelines are assigned a 20-year recovery period and a class life of 35 years.

HOUSE BILL

The House bill establishes a statutory 15-year recovery period and a class life of 35 years for natural gas distribution lines.

Effective date.—The House bill provision is effective for property placed in service after April 11, 2005.

SENATE AMENDMENT

The Senate amendment is the same as the House bill, except the Senate amendment requires that the original use of the property being with the taxpayer and that the property be placed in service prior to January 1, 2008.

Effective date.—The Senate amendment provision is effective for property placed in service after the date of enactment. However, the provision does not apply to property placed subject to a binding contract on or before June 14, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the following modifications. The conference agreement is effective for property, the original use of which begins with the taxpayer after April 11, 2005, which is placed in service after April 11, 2005 and before January 1, 2011. The provision does not apply to property subject to a binding contract on or before April 11, 2005.

3. Transmission property treated as fifteen-year property (sec. 1308 of the House bill, the conference agreement, and sec. 166 of the Code)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the “class life of the property.” The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56. Assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period and a class life of 30 years.

HOUSE BILL

The House bill provision establishes a statutory 15-year recovery period and a class life of 35 years for assets placed in service under the Modified Accelerated Cost Recovery System. The provision does not apply to property subject to a binding contract on or before January 1, 2008.
of 30 years for certain assets used in the transmission of electricity for sale and related land improvements. For purposes of the provision, section 1245 property used in the transmission of electricity for sale, the original use of which commences with the taxpayers after April 11, 2005, will qualify for the new recovery period.

Effective date.—The provision is effective for air pollution control facilities placed in service after April 11, 2005.

SENATE AMENDMENT
No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, which provides for the amendment to extend the limitation on the amount attributable to the first 15 years of an extension of useful life greater than 15 years, only the portion complies with appropriate standards.

Certification is required by appropriate extension in total operating costs for such plant or other property that is either (i) the construction, reconstruction, or equipment of a taxable year 2005, the original use of which commences with the taxpayers after that date. The House bill does not contain any provision making the section 29 credit part of the general business credit, the conference agreement adds a production credit for qualified facilities that produce coke or coke gas. Qualified facilities must have been placed in service between January 1, 1993, or after June 30, 1996, and before January 1, 2010. The conference agreement provides for the production of coke or coke gas in general composed of multiple coke ovens or similar structures.

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the amortization period is 84 months (rather than 60 months) for certified air pollution control facilities used in connection with an electric generation plant which is primarily coal fired and which was not in operation before January 1, 1976.

5. Modification of credit for producing fuel from a non-conventional source (sec. 1305 of the House bill, secs. 1321 and 1322 of the conference agreement, and sec. 29 and new sec. 45K of the Code)

PRESENT LAW

Certain fuels produced from “non-conventional sources” and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or Brtu oil barrel equivalent (“section 29 credit”). Qualified fuels must be produced within the United States.

Qualified fuels include:

- oil produced from shale and tar sands;
- gas produced from geopressed brine, Devonian shale, coal seams, tight formations, or biomass; and
- liquid, gaseous, or solid synthetic fuels produced from lignite.

Generally, the section 29 credit has expired, except for certain biomass gas and synthetic fuels sold before January 1, 2006, and produced at facilities placed in service after December 31, 2002, and before January 1, 2008.

The section 29 credit may not exceed the excess of the tentative minimum tax liability over the tentative minimum tax. Unused section 29 credits may not be carried forward or carried back to other taxable years. However, to the extent the section 29 credit is disallowed because of the tentative minimum tax, the minimum tax credit allowable in future years is increased by the amount so disallowed.

Other business credits are included in the general business credit, the conference agreement, and sec. 468A of the Code)

PRESENT LAW

Overview

Special rules dealing with nuclear decommissioning reserve funds were enacted in the Deficit Reduction Act of 1984 ("1984 Act"). The $3.00 credit for coke or coke gas is indexed for inflation using 2004 as the base year instead of 1979. A facility that has claimed a credit under the section 29 credit provisions is not entitled to claim the new credit for producing coke or coke gas.

The conferees understand that the Internal Revenue Service has stopped issuing private letter rulings and other taxpayer-specific guidance regarding the section 29 credit. The conferees believe that the Internal Revenue Service should consider issuing such rulings and guidance on an expedited basis to those taxpayers who had pending ruling requests at the time the moratorium was implemented.

6. Modification to special rules for nuclear decommissioning costs (sec. 1396 of the House bill, sec. 1321 of the conference agreement, and sec. 468A of the Code)

PRESENT LAW

Qualified nuclear decommissioning fund

A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used exclusively for the payment of decommissioning costs, taxes on fund income, and interest payments on fund obligations. The income of the fund is taxed at a reduced rate of 20 percent for taxable years beginning after December 31, 1985. Contributions to a qualified fund are deductible in the year made to the extent that these amounts are collected as part of the cost of service to ratepayers (the "cost of service requirement"). Funds withdrawn by the taxpayer to pay for decommissioning costs are included in the taxpayer’s income, but the taxpayer also is entitled to a deduction for decommissioning costs as economic performance for such costs occurs. Contributions to a qualified fund are limited to the amount required to fund decommissioning costs of a nuclear powerplant for
the period during which the qualified fund is in existence (generally post-1984 decommissioning costs of a nuclear powerplant). For this purpose, decommissioning costs are considered to be incurred only over a nuclear powerplant’s estimated useful life. In order to prevent accumulations of funds over the remaining life of a nuclear powerplant in excess of amounts set aside for decommissioning costs of such nuclear powerplant and to ensure that contributions to a qualified fund are not deducted more rapidly than level funding (taking into account a private discount rate), taxpayers must obtain a ruling from the IRS to establish the maximum annual contribution that may be made to a qualified fund (the “ruling amount”). In certain instances (e.g., change in estimates), a taxpayer is required to obtain a new ruling amount to reflect updated information.

A qualified fund may be transferred in connection with the sale, exchange or other transfer of the nuclear powerplant to which it relates. If the transferee is a regulated public utility and meets certain other requirements, the transfer will be treated as a nontaxable transaction. No gain or loss will be recognized on the transfer of the qualified fund and tax payments will take place on the transferee’s basis in the fund. The transferee is required to obtain a new ruling amount from the IRS or accept a discretionary determination by the IRS.

Nonqualified nuclear decommissioning funds

Federal and State regulators may require utilities to set aside funds for nuclear decommissioning costs in excess of the amount allowed as a deductible contribution to a qualified fund. In addition, taxpayers may have set aside funds prior to the effective date of the qualified fund rules. The treatment of amounts set aside for decommissioning costs prior to 1984 varies. Some taxpayers may have received no tax benefit while others may have deducted such amounts or excluded such amounts from income. Since 1984, taxpayers have been required to include in gross income customer charges for decommissioning costs (sec. 58), and amounts or excluded amounts from income set aside to pay for decommissioning costs except through the use of a qualified fund. Income earned in a nonqualified fund is taxable to the fund’s owner as it is earned. HOUSE BILL

Repeal of cost of service requirement

The House bill repeals the cost of service requirement for deductible contributions to a nuclear decommissioning fund. Thus, all taxpayers, including unregulated taxpayers, are allowed a deduction for amounts contributed to a qualified fund.

Permit contributions to a qualified fund for pre-1984 decommissioning costs

The House bill also repeals the limitation that a qualified fund only accumulate an amount sufficient to pay for a nuclear powerplant’s decommissioning costs incurred during the period that the qualified fund is in existence (generally post-1984 decommissioning costs). Thus, any taxpayer is permitted to accumulate an amount sufficient to cover the present value of 100 percent of a nuclear powerplant’s estimated decommissioning costs in a qualified fund. The House bill does not change the requirement that contributions to a qualified fund not be deducted more rapidly than level funding.

Exception to ruling amount for certain decommissioning costs

The House bill permits a taxpayer to make contributions to a fund in excess of the ruling amount in one circumstance. Specifically, a taxpayer is permitted to contribute up to the present value of total nuclear decommissioning costs with respect to a nuclear powerplant previously excluded under section 468A(d)(2)(A). It is anticipated that this limitation will be terminated under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the ruling amount. Any amount transferred to the qualified fund under this special rule is allowed as a deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that has received amounts under this rule is transferred to another person, the transferee will be permitted a deduction for any remaining deductible amounts at the time of transfer.

Effective date—The provision is effective for taxable years beginning after December 31, 2005.

SENATE BILL

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, with the following modification.

Arbitrage rules not to apply to prepayments

Interest on bonds issued by States or local governments to finance activities carried out or paid for by those entities generally is not subject to arbitrage restrictions (the “arbitrage restrictions”). One such restriction limits the use of bond proceeds to acquire “investment-type property.” The term investment-type property includes the acquisition of property in a transaction involving a prepayment if a principal purpose of the prepayment is to receive an investment return from the time the prepayment is made until the time payment of interest, if any, is otherwise made. A prepayment may produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the price of the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both taxable and tax-exempt bonds and other persons using taxable financing for the same transaction.

On August 4, 2003, the Treasury Department issued final regulations defining what is customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity. Generally, a qualified prepayment under the arbitrage rules requires that 90 percent of the natural gas or electric power purchased with the prepayment be used for a qualifying use. Generally, natural gas is used for a qualifying use if it is to be (1) furnished to retail gas customers of the issuing municipal utility who are located in the natural gas service area of the issuing municipal utility, (2) furnished to retail electric customers of the issuing municipal utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility that is owned by a governmental person if the requirements of (1), (2), or (3) are satisfied by the purchasing utility (treating the purchaser as the issuing utility) or (5) used to furnish the service area retail electric utility that is owned by a governmental person if the requirements of (1), (2), or (3) are satisfied by the purchasing utility (treating the purchasing utility as the issuing utility). Electricity is used for a qualifying use if it is to be furnished to retail service area electric customers of the issuing utility. Generally, the proceeds of which are primarily used to finance governmental functions or the debt is repaid with governmental funds.

Private activity bond tests

State and local bonds may be classified as either governmental bonds or private activity bonds. Generally, a bond is treated as a governmental bond if more than 50 percent of the proceeds of the bond issue, or, if less, more than $5,000,000 is used (directly or indirectly) to make or finance loans to persons other than governmental units or private activity “revenue bonds” (e.g., “revenue loan financing test”) or if it meets the requirements of a two-part private business test.

In general

The House bill creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term “investment-type property” does not include a prepayment under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private business tests.

The House bill, a prepayment financed with tax-exempt bond proceeds for the purpose of obtaining a supply of natural gas for service area customers of a governmental unit, is treated as a purchase of investment-type property. A contract is a qualified natural gas contract if the volume of natural gas secured for any year covers, directly or indirectly, an estimated average of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the generating unit, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the government utility. The 5-calendar-year period immediately preceding the calendar year in which the bonds
are issued. A retail customer is one who does not purchase natural gas for resale. Natural gas used to generate electricity by a utility owned by a governmental unit is counted as retail natural gas consumption if the electric utility is sold to retail customers within the service area of the governmental electric utility.

Adjustments

The volume of gas permitted by the general rule is reduced by natural gas otherwise available on the date of issuance. Specifically, the amount of natural gas permitted to be acquired under a qualified natural gas contract for any period is to be reduced by the applicable share of natural gas held by the utility on the date of issuance of the bonds and natural gas that the utility has a right to acquire for the prepayment period (determined as of the date of issuance). For purposes of the preceding sentence, ‘applicable share’ means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

For purposes of the safe harbor, if after the close of the testing period and before the issue date (1) the governmental electric utility enters into a contract to supply natural gas (other than for resale) for a commercial person for use at a property within the service area of such utility and (2) the gas consumption for such property was not included in the testing period or the ratable amount of natural gas to be supplied under the contract has been determined at the rate at which the gas was supplied to such property during the testing period, then the amount of gas permitted to be purchased may be increased to accommodate the contract.

The calculation of average annual retail natural gas consumption for purposes of the safe harbor, however, is not to exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

Intentional acts

The safe harbor does not apply if the utility engages in intentional acts to render (1) the governmental electric utility a supplier of electric energy to a governmental unit, (2) the governmental electric utility a supplier of electric energy to the consumer at a rate lower than the rate charged by a governmental electric utility, and (3) any governmental utility with respect to which governmental electric utility is a supplier of electric energy.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution services, or in the case of an electric utility, electricity distribution services; (2) limited areas contiguous to such areas, and (3) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas are limited to any area that is contiguous to the service area described in (1) in which retail customers of the utility are located if such area is not also served by another utility providing the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor on a date in the period to which the prepayment relates.

Non-governmental output property restrictions

A qualified natural gas supply contract as defined in the provision is not nongovernmental output property for purposes of subsection (d) of section 141. Subsection (d) of section 141 does not apply to prepayment contracts for natural gas or electricity that would be allowed to be treated as governmental utility transactions if this section were not in effect.

Ruling request for higher prepayment amounts

The conference agreement follows the House bill.

9. Extension and modification of renewable electricity production credit

The conference agreement follows the House bill.
other biomass. In the case of a poultry waste facility, the taxpayer may claim the credit as a lessee or operator of a facility owned by a governmental unit.

For all qualified facilities, other than closed-loop biomass facilities modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, the amount of credit a taxpayer may claim is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits, but the reduction cannot exceed 50 percent of the nonrefundable credit. In the case of closed-loop biomass facilities modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, the amount of credit a taxpayer may claim is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits.

The credit for electricity produced from renewable sources is a component of the general business credit (sec. 38(b)(8)). Generally, the general business credit for any taxable year may not exceed the amount by which the taxpayer's net income tax exceeds the greater of the tentative minimum tax or so much of the net regular tax liability as exceeds credits. Credits may be carried back one year and forward up to 20 years.

A taxpayer's tentative minimum tax is treated as being zero for purposes of determining the limitation with respect to the section 45 credit for electricity produced from a facility (placed in service after October 22, 2004) during the first four years after the year of placement beginning on the date the facility is placed in service.

Qualified facilities

Wind energy facility

A wind energy facility is a facility that uses wind to produce electricity. To be a qualified wind energy facility, the facility must be placed in service after December 31, 1993, and before January 1, 2006.

Closed-loop biomass facility

A closed-loop biomass facility is a facility that uses any organic material from a plant which is planted exclusively for the purpose of being used at a qualifying facility to produce electricity. In addition, a facility can be a closed-loop biomass facility if it is a facility that is modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both coal and other biomass, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation.

To qualify, a closed-loop biomass facility must be placed in service after December 31, 1992, and before January 1, 2006. In the case of a facility using closed-loop biomass but also co-firing the closed-loop biomass with coal, other biomass, or coal and other biomass, a qualified facility must be originally placed in service and modified to co-fire the closed-loop biomass at any time before January 1, 2006.

Open-loop biomass (including agricultural livestock waste nutrients) facility

An open-loop biomass facility is a facility using biomass to produce electricity. Open-loop biomass is defined as (1) any agricultural livestock waste nutrients, or (2) any solid, nonhazardous, cellulose or lignin fraction of coal which is derived from other waste materials and which is derived from certain forest-related resources, solid wood waste materials, or agricultural sources of biomass-related resources other than mill residues, other than spent chemicals from pulp manufacturing, precommercial thinnings, slash, and brush. Solid wood waste materials and certain agricultural feedstock products or residues. However, qualifying open-loop biomass does not include municipal solid waste (garbage), gas derived from biogasification of solid waste, or paper or paper products. In addition, open-loop biomass does not include closed-loop biomass or any biomass burned in conjunction with fossil fuel (co-firing) beyond such fossil fuel required for start up and flame stabilization.

Agricultural livestock waste nutrients are defined as agricultural livestock manure and livestock litter, including feeding material for the disposition of manure.

To be a qualified facility, an open-loop biomass facility must be placed in service after October 22, 2004 and before January 1, 2006, in the case of a facility using agricultural livestock waste nutrients and must be placed in service any time prior to January 1, 2006, in the case of a facility using other open-loop biomass.

Geothermal facility

A geothermal facility is a facility that uses geothermal energy to produce electricity. Geothermal energy is energy derived from a geothermal deposit which is a geothermal reservoir consisting of natural heat, which is stored in rocks or in an aqueous fluid or vapor (whether or not under pressure).

To be a qualified facility, a geothermal facility must be placed in service after October 22, 2004 and before January 1, 2006.

Solar facility

A solar facility is a facility that uses solar energy to produce electricity. To be a qualified facility, a solar facility must be in service after October 22, 2004 and before January 1, 2006.

Small irrigation facility

A small irrigation power facility is a facility that generates electric power through an irrigation system canal or ditch without any impoundment of water. The installed capacity of a qualified facility must be less than 150 kilowatts but less than five megawatts. To be a qualified facility, a small irrigation facility must be originally placed in service after October 22, 2004 and before January 1, 2006.

Landfill gas facility

A landfill gas facility is a facility that uses landfill gas as a fuel source. Landfill gas is defined as methane gas derived from the biodegradation of municipal solid waste. To be a qualified facility, a landfill gas facility must be placed in service after October 22, 2004 and before January 1, 2006.

Trash combustion facility

Trash combustion facilities are facilities that burn municipal solid waste (garbage) to produce steam to drive a turbine for the production of electricity. To be a qualified facility, a trash combustion facility must be placed in service after October 22, 2004 and before January 1, 2006.

Refined coal facility

A qualifying refined coal facility is a facility producing refined coal that is placed in service after October 22, 2004 and before January 1, 2006. Refining is defined as using liquifying, liquefied, or solid synthetic fuel produced from coal (including lignite) or high-carbon fly ash, including such fuel used as a feedstock. Qualifying refined coal is a fuel that, when tested, emits 20 percent less nitrogen oxides and either SO2 or mercury than the burning of feedstock coal or comparable coal pre-eminence, as determined by an amount of January 1, 2003, and if the fuel sells at prices at least 50 percent greater than the prices of the feedstock coal or comparable coal. In addition, to be qualified refined coal the fuel must be sold by the taxpayer with the reasonable expectation that it will be used exclusively for the primary purpose of producing steam.

Summary of credit rate and credit period by facility type

<table>
<thead>
<tr>
<th>Electricity produced from renewable resources</th>
<th>Credit amount for 2003 (cents per kilowatt-hour)</th>
<th>Credit amount for 2004 (cents per kilowatt-hour)</th>
<th>Credit period (years from placed-in-service date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wind</td>
<td>1.9</td>
<td>1.9</td>
<td>5</td>
</tr>
<tr>
<td>Closed-loop biomass (including agricultural livestock waste nutrient facilities)</td>
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<td>1.9</td>
<td>5</td>
</tr>
<tr>
<td>Geothermal</td>
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<tr>
<td>Solar</td>
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<tr>
<td>Small irrigation</td>
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<td>0.9</td>
<td>5</td>
</tr>
<tr>
<td>Municipal solid waste gas facilities</td>
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<td>5</td>
</tr>
<tr>
<td>Landfill gas facilities</td>
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</tr>
<tr>
<td>Refined Coal</td>
<td>5.481</td>
<td>5.481</td>
<td>10</td>
</tr>
</tbody>
</table>

For eligible pre-existing facilities and other facilities placed in service prior to January 1, 2005, the credit period commences on January 1, 2005. In the case of certain co-firing closed-loop facilities, the credit period begins no earlier than October 22, 2004.

Taxation of cooperatives and their patrons

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. Generally, cooperatives that are subject to the cooperative tax rules of sub-chapter C of the Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a conduit with respect to profits derived from transactions with patrons who are members of the cooperative. Present law does not permit cooperatives to pass any portion of the income tax credit for electricity production through to their patrons.

No provision.

SENATE AMENDMENT

Extension of placed-in-service date for qualified facilities

The provision extends the placed-in-service date by three years (through December 31, 2008) for the following qualifying facilities: wind facilities; closed-loop biomass facilities (including a facility co-firing the closed-loop biomass with coal, other biomass, or coal and other biomass); open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. The proposal does not extend the terminating placed-in-service date for solar facilities (December 31, 2004) or refined coal facilities (December 31, 2008).

New qualifying energy resources

The provision adds three new qualifying energy resources: fuel cells; hydropower; and wave, current, tidal, and ocean thermal energy.

Fuel cells

A qualifying fuel cell facility is an integrated system composed of a fuel cell stack assembly and associated balance of plant components that converts a form of electricity into energy using electrochemical means. A qualifying facility must have an electricity-
only generation efficiency of greater than 30 percent, generate at least 0.5 megawatt of electricity, and be placed in service after December 31, 2005 and before January 1, 2009. The conference agreement extends the placed-in-service date for qualifying open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal facilities, small irrigation power facilities, landfill gas facilities, trash combustion facilities, and hydropower facilities. The conference agreement provides a seven-year credit period for Indian coal facilities, as explained above.

Equalization of units added to pre-existing trash combustion facilities

The conference agreement follows the Senate amendment with respect to qualification of units added to pre-existing trash combustion facilities.

Taxation of cooperatives and their patrons

The conference agreement follows the Senate amendment with respect to taxation of cooperatives and their patrons.

Extension of placed-in-service date for qualifying facilities

The conference agreement extends the placed-in-service date by two years (through December 31, 2007) for qualifying facilities: wind facilities; closed-loop biomass facilities (including a facility co-firing the closed-loop biomass with coal, other biomass, or closed-loop biomass facilities); open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. The conference agreement does not alter the terminating placed-in-service date for solar facilities (December 31, 2005) or refined coal facilities (December 31, 2008).

New qualifying energy resource

The conference agreement adds two new qualifying energy resources: hydropower; and Indian coal.

Hydropower

The conference agreement follows the Senate amendment with respect to hydropower.

Indian coal

The conference agreement adds Indian coal as a new energy source. The taxpayer may claim a credit for sales of coal to an unrelated third party from a qualified facility for the seven-year period beginning on January 1, 2006, and ending after December 31, 2012. The value of the credit is $1.50 per ton for the first years of the seven-year period and decreases by $0.05 per ton for each year of the seven-year period. The credit amounts are indexed for inflation. A qualified Indian coal facility is a facility that produces coal from reserves that on June 14, 2005, were owned by a Federally recognized tribe of Indians or were held in trust by the United States for a Federally recognized tribe of Indians.

Equalization of credit period for all qualifying renewable resources

The conference agreement follows the Senate amendment with respect to equalization of the credit period for all qualifying renewable resources. The conference agreement adds two new qualifying energy resources: hydropower; and Indian coal.
An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person. The credit is equal to 1.5 percent of the cost of the facility. The credit may claim credit for the 10-year period commencing with the date the qualified facility is placed in service. The credit is reduced for grants, tax-exempt bonds, or other property or services with a value equal to at least 10 percent of the cost of the tax credit facility. The amount of the credit is determined by multiplying the bond’s credit rate by the face amount of the bond and the qualified credit bond. The credit rate on the bonds is determined by the Secretary of the Treasury. The credit rate is not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date would be entitled to a tax credit equal to 10 percent of the credit rate on the bond multiplied by the face amount of the bond. The credit is based on the bond’s credit rate by the face amount of the bond. The credit rate is determined by the Secretary of the Treasury. The credit accrues quarterly and is included in gross income (as if it were an interest payment on the bond) and can be claimed against other income tax liability and alternative minimum tax liability.

For purposes of the provision, “qualified issues” include bonds sold by Indian tribal governments; (2) the Tennessee Valley Authority; (3) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which serves a government, provided that (1) at least 95 percent of the proceeds are used to finance capital expenditures incurred by qualified borrowers for properties incurred by qualified borrowers for facilities within the calendar quarter in which the bonds were issued. A school is a “qualified zone academy” if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, (3) either (a) the school is located in an empowerment zone or enterprise community designated under the Code, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the qualified zone academy, and (3) the Secretary may allocate, in the aggregate, to qualified projects that qualify for the tax credit under section 145 (“qualified projects”), without regard to the placed-in-service date requirements of that section.

Like qualified zone academy bonds, CREBs are not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date would be entitled to a tax credit equal to 10 percent of the credit rate on the bond multiplied by the face amount of the bond and the qualified credit bond. The credit rate on the bonds is determined by the Secretary of the Treasury. The credit accrues quarterly and is included in gross income (as if it were an interest payment on the bond) and can be claimed against other income tax liability and alternative minimum tax liability.

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the following principles: (1) subordination of capital in control over the cooperative undertaking and in ownership of the financial benefits from ownership; (2) democratic control by representatives of cooperative ownership of the cooperative; (3) investing in and allocation among the members of all excess of operating revenues over the expenses incurred to generate revenues in proportion to patronage; (4) membership status of the purchaser is determined on a non-discriminatory open access basis; (5) rural electric cooperatives are member-owned and member-controlled. A municipal corporation may be a member of a cooperative.

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its taxable income distributions of patronage dividends. In general, patronage dividends are the excess of the cooperative’s income attributable to transactions with patrons who are members of the cooperative (patronage); and (4) operation at cost (not operating for profit or below cost).

In general, cooperative members are those who have a management role in the cooperative and who share in patronage capital. As described below, income from the sale of electric energy by an electric cooperative to the extent that such income is derived from transactions with persons who are members of the cooperative does not exceed the value of transactions with patrons who are not members of the cooperative. Therefore, income from the sale of electric energy by an electric cooperative can be treated as a cooperative’s income derived from transactions with persons who are members of the cooperative.

Cooperatives that qualify as tax-exempt farmers’ cooperatives are permitted to exclude from their taxable income only to the extent of net income that is derived from transactions with patrons who are members of the cooperative.

Taxation of electric cooperatives exempt from subchapter T

In general, the cooperative tax rules of subchapter T apply to any corporation operating on a cooperative basis (except mutual savings banks, insurance companies, other tax-exempt organizations, and certain utilities), including tax-exempt farmers’ cooperatives (described in sec. 521(b)). However, subchapter T does not apply to an organization that is “engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.” Instead, electric cooperatives are taxed under rules that were generally applicable to cooperatives prior to the enactment of subchapter T in 1962. Under these rules, an electric cooperative can exclude from its taxable income certain distributions derived from transactions with patrons who are not members of the cooperative, including net income derived from transactions with patrons who are not members of the cooperative.

Taxation of noncooperative electric cooperatives

Section 501(c)(12) provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative’s income consists of amounts collected from members for the purpose of paying losses and expenses of providing service to its members. The IRS takes the position that rural electric cooperatives also must comply with the fundamental cooperative principles described above in order to qualify for tax exemption under section 501(c)(12). The IRS position is that the cooperative must take into account any income from: (1) qualified pole rentals; (2) open access electric energy transmission services; (3) open access electric energy distribution services; (4) nuclear decommissioning transaction; (5) any asset exchange or conversion transaction.

Income received or accrued by a rural electric cooperative from transactions with patrons who are members of the cooperative does not exceed the value of transactions with patrons who are not members of the cooperative, provided the value of transactions with patrons who are not members of the cooperative does not exceed the value of transactions with patrons who are members of the cooperative.

Taxation of electric cooperatives treated as taxable

In general, the cooperative tax rules of subchapter T apply to any corporation operating on a cooperative basis (except mutual savings banks, insurance companies, other tax-exempt organizations, and certain utilities), including tax-exempt farmers’ cooperatives (described in sec. 521(b)). However, subchapter T does not apply to an organization that is “engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.” Instead, electric cooperatives are taxed under rules that were generally applicable to cooperatives prior to the enactment of subchapter T in 1962. Under these rules, an electric cooperative can exclude from its taxable income certain distributions derived from transactions with patrons who are not members of the cooperative, including net income derived from transactions with patrons who are not members of the cooperative.

Taxation of electric cooperatives treated as taxable

Section 501(c)(12) provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative’s income consists of amounts collected from members for the purpose of paying losses and expenses of providing service to its members. The IRS takes the position that rural electric cooperatives also must comply with the fundamental cooperative principles described above in order to qualify for tax exemption under section 501(c)(12). The IRS position is that the cooperative must take into account any income from: (1) qualified pole rentals; (2) open access electric energy transmission services; (3) open access electric energy distribution services; (4) nuclear decommissioning transaction; (5) any asset exchange or conversion transaction.

Income received or accrued by a rural electric cooperative from transactions with patrons who are members of the cooperative does not exceed the value of transactions with patrons who are not members of the cooperative, provided the value of transactions with patrons who are not members of the cooperative does not exceed the value of transactions with patrons who are members of the cooperative.

The special rule for income received or accrued by a tax-exempt rural electric cooperative from a load loss transaction does not apply to taxable years beginning after December 31, 2006.

Gain realized by a tax-exempt rural electric cooperative from a voluntary exchange or involuntary conversion of certain property is excluded in determining whether a tax-exempt rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). This provision only applies to the extent that: (1) the gain would qualify for deferred recognition under section 1031 (relating to exchanges of property held for productive use or investment) or section 1033 (relating to involuntary conversions) if the property were a taxable corporation; and (2) the property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes replacement property that is acquired by the cooperative for the purpose of generating, transmitting, distributing, or selling electric energy or natural gas.

The exclusion for income from asset exchange or conversion transactions does not apply to taxable years beginning after December 31, 2006.

Treatment of income from load loss transactions

Tax-exempt rural electric cooperatives

Under present law, income received or accrued by a tax-exempt rural electric cooperative from a “load loss transaction” is treated under section 501(c)(12) as income collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Therefore, income from load loss transactions is treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). In addition, income from load loss transactions does not cause a tax-exempt electric cooperative to fail to be treated as a Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

A “load loss transaction” is generally defined as any wholesale or retail sale of electric energy (other than to a member of the cooperative) to the extent that the aggregate amount of such sales during a seven-year period beginning with the “start-up year” does not exceed the reduction in the amount of sales of electric energy during the seven-year period by the cooperative. A “start-up year” is defined as the first year that the cooperative offers nondiscriminatory open access or, if later and at the election of the cooperative, beginning after December 31, 2006.

The special rule for income received or accrued by a tax-exempt rural electric cooperative from a load loss transaction does not apply to taxable years beginning after December 31, 2006.

Taxable electric cooperatives

The receipt or accrual of income from load loss transactions by taxable electric cooperatives is treated as income from patrons who are members of the cooperative. Thus, income from a load loss transaction is excluded from the taxable income of a taxable electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is a member of the cooperative. In addition, income from load loss transactions does not cause a taxable electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

The special rule for income received or accrued by a taxable electric cooperative from a load loss transaction does not apply to taxable years beginning after December 31, 2006.
No provision.

Senate Amendment

The Senate amendment provision extends the treatment under the present-law deferral provision to sales or dispositions to an independent transmission company prior to January 1, 2008.

Effective date.—The Senate amendment provision is effective for transactions occurring after the date of enactment. However, because the provision is an extension of a present law provision which expires on December 31, 2006, only transactions occurring after December 31, 2006 and prior to January 1, 2008 will be affected.

Conference Agreement

The conference agreement follows the Senate amendment.

12. Dispositions of transmission property to implement FERC restructuring policy (sec. 1506 of the Senate amendment, sec. 1305 of the House agreement, and sec. 451 of the Code)

Present Law

Generally, a taxpayer selling property recognizes gain to the extent of the sales price (and any other consideration received) exceeds the adjusted basis. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a tax provision.

One such special tax provision permits taxpayers to elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase exempt utility property within the applicable period (the “reinvestment property”). If the amount realized exceeds the amount used to purchase reinvestment property, any realized gain is recognized to the extent of such excess in the year of the qualifying electric transmission transaction.

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (1) who determines under section 203 of the Federal Power Act (or by declaratory order) is not a “market participant” and (2) whose transmission facilities are placed in service before December 31, 2006. The provision is effective after December 31, 2006. The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

The provision permits a taxpayer to allocate gain from electric transmission transactions to qualifying electric transmission transactions in the current or future years.

13. Credit for production from advanced nuclear power facilities (sec. 1507 of the Senate amendment, sec. 1306 of the conference agreement, and new sec. 45J of the Code)

Present Law

An income tax credit is allowed for production of electricity from qualified facilities sold by the taxpayer to an unrelated person. The credit is equal to 1.5 cents per kilowatt-hour (indexed for inflation) of electricity produced. The amount of the credit is 1.9 cents per kilowatt-hour for 2005. However, electricity produced at a qualified geothermal, solar, wind, or biomass power project may claim the credit for 10 years from the placed-in-service date of the facility.

The aggregate amount of credit that a taxpayer may claim for electricity produced at advanced nuclear power facilities in any one year during the eight-year period is subject to limitation as described below.

Senate Amendment

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (1) who determines under section 203 of the Federal Power Act (or by declaratory order) is not a “market participant” and (2) whose transmission facilities are placed in service before December 31, 2006. The provision is effective after December 31, 2006. The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

The provision permits a taxpayer to allocate gain from electric transmission transactions to qualifying electric transmission transactions in the current or future years.

The provision permits a taxpayer to defer the recognition of gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase exempt utility property within the applicable period (the “reinvestment property”). If the amount realized exceeds the amount used to purchase reinvestment property, any realized gain is recognized to the extent of such excess in the year of the qualifying electric transmission transaction.

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (1) who determines under section 203 of the Federal Power Act (or by declaratory order) is not a “market participant” and (2) whose transmission facilities are placed in service before December 31, 2006. The provision is effective after December 31, 2006. The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

The provision permits a taxpayer to allocate gain from electric transmission transactions to qualifying electric transmission transactions in the current or future years.

No provision.

House Bill

The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

Effective date.—The Senate amendment provision is effective for transactions occurring after the date of enactment. However, because the provision is an extension of a present law provision which expires on December 31, 2006, only transactions occurring after December 31, 2006 and prior to January 1, 2008 will be affected.

Conference Agreement

The conference agreement follows the Senate amendment.

19. Credit for production from advanced nuclear power facilities (sec. 1507 of the Senate amendment, sec. 1306 of the conference agreement, and new sec. 45J of the Code)

Present Law

An income tax credit is allowed for production of electricity from qualified facilities sold by the taxpayer to an unrelated person. The credit is equal to 1.5 cents per kilowatt-hour (indexed for inflation) of electricity produced. The amount of the credit is 1.9 cents per kilowatt-hour for 2005. However, electricity produced at a qualified geothermal, solar, wind, or biomass power project may claim the credit for 10 years from the placed-in-service date of the facility.

The aggregate amount of credit that a taxpayer may claim for electricity produced at advanced nuclear power facilities in any one year during the eight-year period is subject to limitation as described below.

Senate Amendment

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (1) who determines under section 203 of the Federal Power Act (or by declaratory order) is not a “market participant” and (2) whose transmission facilities are placed in service before December 31, 2006. The provision is effective after December 31, 2006. The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

The provision permits a taxpayer to allocate gain from electric transmission transactions to qualifying electric transmission transactions in the current or future years.

The provision permits a taxpayer to defer the recognition of gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase exempt utility property within the applicable period (the “reinvestment property”). If the amount realized exceeds the amount used to purchase reinvestment property, any realized gain is recognized to the extent of such excess in the year of the qualifying electric transmission transaction.

A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007. In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the FERC; (2) a person (1) who determines under section 203 of the Federal Power Act (or by declaratory order) is not a “market participant” and (2) whose transmission facilities are placed in service before December 31, 2006. The provision is effective after December 31, 2006. The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

The provision permits a taxpayer to allocate gain from electric transmission transactions to qualifying electric transmission transactions in the current or future years.

No provision.

House Bill

The provision allows income from load loss transactions to be recognized in the year the transaction occurs.

Effective date.—The Senate amendment provision is effective for transactions occurring after the date of enactment. However, because the provision is an extension of a present law provision which expires on December 31, 2006, only transactions occurring after December 31, 2006 and prior to January 1, 2008 will be affected.

Conference Agreement

The conference agreement follows the Senate amendment.

14. Credit for investment in clean coal facilities (sec. 1508 of the Senate amendment, sec. 1307 of the conference agreement, and new secs. 48A and 48B of the Code)

Present Law

Present law does not provide an investment credit for electricity production facilities that uses coal as a fuel or for the gasification of coal or other materials. The provision adds a nonrefundable investment tax credit (“energy credit”) is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity; (2) that uses geothermal energy to heat or cool a structure; (3) that uses wind or biomass energy to generate electricity; or (4) that is used to provide solar process heat, or (2) that is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage (sec. 48). The energy credit is a component of the general business credit (sec. 38(b)(1)).

No provision.

Senate Amendment

The provision creates two new 20-percent investment tax credits. Both credits are available only to projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, for use in coal-based electricity generation technologies that can be economically feasible and use the appropriate clean coal technologies. The Secretary of
Treasury, in consultation with the Secretary of Energy, must allocate up to 4,125 megawatts of power generation capacity to credit-eligible projects using IGCC technology. Projects using IGCC technology projects convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a synthetic fuel. The Secretary may allocate $375 million of credit-eligible investments to projects using IGCC and other advanced-coal-based technologies based on the amount invested, rather than on megawatts of power generation capacity. The Secretary may allocate $800 million of credits to IGCC projects and $500 million of credits to projects using other advanced-coal-based technologies.

Under the agreement, the credit available to IGCC projects remains 20 percent of qualified investments; however, the credit for other IGCC projects is reduced to 15 percent of qualified investments. With respect to IGCC projects, the agreement narrows the definition of credit-eligible investments to include only investments in property associated with the gasification of coal, including any coal handling and gas separation equipment. Thus, investments in equipment that could operate by drawing fuel directly from a natural gas pipeline do not qualify for the credit.

The conference agreement retains the 20 percent credit for certifying gasification projects using IGCC and other advanced-coal-based technologies, but reduces the total amount of gasification credits allocable by the Secretary to $350 million. A maximum of $650 million of credit-eligible investment may be allocated to any single gasification project. The conference agreement narrows the definition of credit-eligible investments to include only investments in property associated with the gasification of coal, including any coal handling and gas separation equipment. Thus, investments in equipment that could operate by drawing fuel directly from a natural gas pipeline do not qualify for the credit.

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within 90 days from the end of such five-year period to redeem any “nonqualified bonds.” For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. In addition, the provision provides that the five-year spending period may be extended by the Secretary upon the qualified investment credit provision.

The provision also imposes a maximum maturity limitation on any CIECos. The maximum maturity is the term which the Secretary may allocate, in the aggregate, to certified coal property projects. The authority to issue CIECos expires December 31, 2010.

Effective date.—The provision is effective for bonds issued after December 31, 2005.

Conference Agreement

The conference agreement does not include the provisions in title II (as in effect before its repeal).

16. Credit for investment in clean coke cogeneration manufacturing facilities (sec. 1511 of the Senate amendment)

Present Law

Present law does not provide a credit for investment in clean coke cogeneration manufacturing facilities property.

House Bill

No provision.

Senate Amendment

The provision provides a 20-percent investment tax credit for qualified investments in clean coke cogeneration facilities property. The provision defines clean coke cogeneration manufacturing facilities property as depreciable real and tangible personal property located in the United States that meets certain emission standards and is used for the manufacture of metallurgical coke or for the production of electricity from waste heat generated during the production of metallurgical coke.

The qualified investment for any taxable year is the cost of each cogeneration facilities property placed in service by the taxpayer during such taxable year. The provision excludes the credit from the basis adjustments rules for investment credit property set out in section 50(c) of the Code. Under the basis adjustment rules, the basis in investment credit property is generally reduced by the amount of the investment credit.

Effective date.—The provision applies to periods after December 31, 2004, and before January 1, 2008; (2) which are placed in service before January 1, 2009; (3) which increase the maximum capacity of an existing refinery by at least five percent or increase the percentage of total throughput attributable to qualified fuels (as defined in present law section 29(c), which is redesignated as section 45K(c), by section 1222(a)(1) of the Act) such that it meets all applicable environmental laws in effect when the property is placed in service. The expense is not available with respect to identifiable refinery property built solely to comply with Federal standards or consent decrees. For example, a taxpayer may not elect to expense the cost of a scrubber, even if the scrubber is installed as part of a larger project, if the scrubber does not increase throughput or increase the percentage of total throughput attributable to qualified fuels and is necessary for the refinery to comply with the Clean Air Act. This exclusion applies regardless of whether the manufac-
turer or lessor of such equipment or property has environmental concerns with respect to the refinery itself or the refined fuels.

The Senate amendment provision allows corporations to pass through to the owners of such organizations the expensing deduction for qualified refinery property. To the extent the deduction is passed through to the owners, the provision is immediately effective. However, if denied deductions it would otherwise be entitled with respect to qualified refinery property.

As a condition of eligibility for the expensing deduction, equipment used in the refining of liquid fuels, the Senate amendment provision provides that a refinery must report to the IRS concerning its refinery operations (e.g., production, and processing and selling of refined fuels).

Effective date.—The Senate amendment provision is effective for property placed in service after the date of enactment, the original use of which begins with the taxpayer, provided the property was not subject to a binding contract for construction on or before June 14, 2003.

Conference Agreement

The conference agreement follows the Senate amendment, with the following modifications: (1) under the conference agreement, the expensing election is limited to 50% of the taxpayer’s qualifying expenditures. The remaining 50% is recovered as under present law.

Under the conference agreement, the five percent capacity requirement refers to the output capacity of the refinery, as measured in volume of refined product other than asphalt and lube oil, rather than input capacity, as measured by rated capacity. The conference agreement clarifies that the expensing election is not available with respect to identifiable refinery property built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

Finally, an exception to the original use requirement is provided for property which would meet the requirement but for a sale leaseback transaction within the first three months after the property is originally placed in service.

Under the conference agreement, a cooperative organization electing to pass the expensing deduction through to owners receiving an allocation of the election on the tax return for the taxable year to which the deduction relates. Once made, the election is irrevocable. Moreover, the organization making the election must provide cooperative owners receiving an allocation of the deduction written notice of the amount of such allocation.

18. Allow pass through to owners of deduction for capital costs incurred by small refiner or cogenerators in compliance with Environmental Protection Agency regulations (sec. 1513 of the Senate amendment, sec. 1324 of the conference agreement, and sec. 179B of the Code)

Present Law

Expensing and credit for small refiners

Taxpayers generally may recover the costs of investments in refinery property through annual deduction proximations. In addition, the Code permits small business refiners to immediately expense up to 75 percent of the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency (EPA). Costs qualifying for the deduction are those costs paid or incurred with respect to any facility of a small business refiner during the period beginning on January 1, 2003 and ending on the earlier of the date that is one year after the date on which the taxpayer must comply with the applicable EPA regulations or December 31, 2009.

The Code also provides that a small business refiner may claim credit equal to five cents per gallon of clean diesel fuel produced during the taxable year that is in compliance with the Highway Diesel Fuel Sulfur Control Requirements. The production credit is available with the deduction permitted under present law, costs qualifying for the credit are those costs paid or incurred with respect to any facility of a small business refiner during the period beginning on January 1, 2003 and ending on the earlier of the date that is one year after the date on which the taxpayer must comply with the applicable EPA regulations or December 31, 2009. The taxpayer’s basis in property with respect to which the credit applies
is reduced by the amount of production credit claimed.

For these purposes a small business refiner is a taxpayer who is within the business of refining products employing not more than 1,500 employees directly in refining and has less than 205,000 barrels per day (average) of total refining capacity. The deduction is reduced, pro rata, for taxpayers with capacity in excess of 155,000 barrels per day.

In the case of a qualifying small business refiner that is owned by a cooperative, the cooperative is allowed to elect to pass through to members the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Fuel Sulfur Control Requirements.

Taxation of cooperatives and their patrons

For Federal income tax purposes, a cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its income to the extent of all net income, in computing taxable income, the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Fuel Sulfur Control Requirements. The deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Fuel Sulfur Control Requirements is the deduction permitted for the costs paid or incurred for the purpose of complying with the High- way Fuel Sulfur Control Requirements.

The rebate must be made in some equitable fashion on the basis of the quantity or value of business done with the cooperative.

Except for tax-exempt farmers' cooperatives, cooperatives that are subject to the cooperative tax rules of subchapter T of the Internal Revenue Code are permitted a deduction for patronage dividends from their taxable income only to the extent of net income that is derived from transactions with members who are members of the cooperative. The availability of such deductions from taxable income has the effect of allowing the cooperative to be treated like a separate entity with respect to transactions with members who are members of the cooperative.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of net income that is derived from transactions with patrons who are members of the cooperative. The cooperative generally computes its income as if it were a taxable corporation, with one exception—the cooperative may exclude from its income to the extent of all net income, in computing taxable income, the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Fuel Sulfur Control Requirements. The cooperative is allowed to elect to pass through to members the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Fuel Sulfur Control Requirements.

For purposes of complying with the Highway Fuel Sulfur Control Requirements, a cooperative is defined as any project that involves the production of natural gas from a well project. To qualify for the credit, the property must be installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer. If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account. Certain equipment safety requirements need to be met in order to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations.

Effective date.—The provision applies to costs paid or incurred after the date of enactment in taxable years ending before January 1, 2008.

SENATE AMENDMENT

The provision modifies the EOR credit to 20 percent with respect to any new EOR project or substantial expansion of an existing EOR project that occurs after December 31, 2005, and uses carbon dioxide flooding or injection as an oil recovery method. The increased credit is available only if the property that uses carbon dioxide that is (1) from an industrial source or (2) separated from natural gas and natural gas liquids at a natural gas processing plant.

The provision also expands the definition of a qualified EOR project to include qualified deep gas well projects. A qualified deep gas well project is a project that involves the production of natural gas from a deep gas well project located in the United States which involves the production of natural gas from onshore formations deeper than 20,000 feet. Under the provision, a qualified deep gas deep gas well projects phases out as crude oil prices increase using the same formula applicable to other EOR projects.

Effective date.—The provision applies to costs paid or incurred in taxable years ending after December 31, 2005, but terminates for costs paid or incurred after December 31, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

B. MISCELLANEOUS ENERGY TAX

1. Credit for residential energy efficient property (sec. 3131 of the House bill, sec. 1527 of the Senate amendment, sec. 1335 of the conference bill, and new sec. 23D of the CONFERENCE AGREEMENT

PRESENT LAW

A taxpayer may exclude from income the value of any subsidy provided by a public utility for the purchase or installation of an energy conservation measure. An energy conservation measure means any installation or modification primarily designed to reduce consumption of electricity or natural gas, and has an average energy saving per year in excess of the average energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for residential solar hot water, photovoltaic, or fuel cell property.

HOUSE BILL

The provision provides a personal tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is 20 percent of qualified investment up to a maximum credit of $2,000 for solar water heating property and $2,000 for rooftop photovoltaic property. The provision also provides for a 15 percent personal tax credit for the purchase of qualified fuel cell power plants. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The credit provided is nonrefundable. The taxpayer’s basis in the property is reduced by the amount of the credit.

Qualifying solar water heating property is property that heats water for use in a dwelling unit if at least half of the energy used by such property for such purpose is derived from the sun. Qualified photovoltaic property is property that uses solar energy to generate electricity for use in a dwelling unit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity generation efficiency of greater than 30 percent.

To qualify for the credit, the property must be installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer. If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account. Certain equipment safety requirements need to be met in order to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations.

Effective date.—The credit applies to expenditures made after the date of enactment in taxable years ending before January 1, 2008.
The credit is nonrefundable, and the depreciable basis of the property is reduced by the amount of the credit. Expenditures for labor costs allocable to onsite preparation, assembly, or installation of property eligible for the credit are eligible expenditures.

Certain equipment safety requirements need to be met to qualify for the credit. Special property, such as property owned by common carriers, utilities, or tenant-stockholders in cooperative housing corporations, if less than 80 percent of the property is used for nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account.

**Effective date.**—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2010.

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment, but only for periods for which the credit is nonrefundable, and the taxpayer's basis in the property is reduced by the amount of the credit claimed.

**Effective date.**—The credit applies to periods after December 31, 2005 and prior to January 1, 2008.

2. Credit for business installation of qualified fuel cells and stationary microturbine power plants (sec. 152b of the Senate amendment, sec. 1336 of the conference agreement, and sec. 48 of the Code)

**PRESENT LAW**

A 10-percent business energy investment tax credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy to generate electricity, to heat or cool property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, and prior to January 1, 2008.

The business energy investment tax credit is a component of the general business credit. The general business credit generally may be used for nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account.

**Effective date.**—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

The general business credit generally may not exceed $500 for each 0.5 kilowatt of capacity. The credit is limited to the lesser of 10 percent of the basis of the property or $200 for each kilowatt of capacity.

Additionally, for purposes of the fuel cell and microturbine credits, and only in the case of the provision that property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property, the credit is nonrefundable. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

**Effective date.**—The credit applies to periods after December 31, 2005 and before January 1, 2008.

**PRESENT LAW**

The provision is effective for taxable years ending after December 31, 2005. The increase in the credit rate and the provision related to fiber-optic distributed sunlight applies to periods after December 31, 2005 and before January 1, 2008 for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

**CONFERENCE AGREEMENT**

The conference agreement follows the Senate amendment, but only for periods before January 1, 2008 with respect to the 30-percent credit and the fiber-optic distributed sunlight.

**PRESENT LAW**

A 24.3-cents-per-gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund. Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon into the Highway Trust Fund.

The tax rate for certain special motor fuels is determined, on an energy equivalent basis, as follows:

<table>
<thead>
<tr>
<th>Fuel Type</th>
<th>Tax Rate per Gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquefied petroleum gas ( propane)</td>
<td>13.8 cents per gallon</td>
</tr>
<tr>
<td>Liquefied natural gas</td>
<td>11.9 cents per gallon</td>
</tr>
<tr>
<td>Methanol derived from natural gas</td>
<td>9.15 cents per gallon</td>
</tr>
<tr>
<td>Compressed natural gas</td>
<td>4.54 cents per MCF</td>
</tr>
</tbody>
</table>

No special tax rate is provided for diesel fuel blended with water to form a diesel-water fuel emulsion.

**HOUSE BILL**

A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel-water fuel emulsion to reflect the reduced Btu content per gallon resulting from the water. Emulsion fuels eligible for the special rate must consist of not more than 31 percent diesel (and other minor chemical additives to enhance combustion) and at least 16.9 percent water. The emission addition must be registered by a United States manufacturer or importer. The Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on
S9130

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March 31, 2003. A refund of the difference between the regular rate (24.3 cents per gallon) and the incentive rate (19.7 cents per gallon) is available to the extent tax-paid diesel is used to produce a qualifying emulsion diesel fuel. Anyone who separates the diesel fuel from the diesel-water emulsion on which a reduced rate of tax was imposed is treated as a refiner of the fuel and is eligible for the difference between the amount of tax on the latest removal of the separated fuel and the amount of tax that was imposed upon the pre-mixture removal.

Effective date.—The provision is effective on January 1, 2006.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill except the diesel-water emulsion fuels eligible for the special rate must consist of at least 14 percent water. In addition, the person claiming entitlement to the special rate of tax must be registered with the Secretary. The conference agreement clarifies that claims for refund based on the incentive rate may be filed quarterly if such person can claim at least $750. If the person cannot claim at least $750 at the end of a quarter, the amount can be carried over to the next quarter to determine if the person can claim at least $750. If the person cannot claim at least $750 at the end of the taxable year, the person must claim a credit on the person’s income tax return.

5. Amortization of delay rental payments (sec. 1314 of the House bill)

PRESENT LAW

Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deductible. However, costs incurred by oil, gas, and mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for “delay rental payments” as a condition of their extension. The Internal Revenue Service has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

HOUSE BILL

The provision allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment. A property as all basis is recovered over the two-year amortization period.

Effective date.—The provision applies to amounts paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date delay rental payments.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision.

6. Amortization of geological and geophysical expenditures (sec. 1315 of the House bill, sec. 1329 of the conference agreement, and sec. 167 of the Code)

PRESENT LAW

In general

Geological and geophysical expenditures (“G&G”) are costs incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. A key issue with respect to the tax treatment of such expenditures is whether or not they are capital in nature. Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property. G&G costs are capital in nature and therefore are allocable to the cost of the property acquired or retained. The costs attributable to such exploration are amortizable over the period during which the property is abandoned or retained. As described further below, IRS administrative rulings have provided further guidance regarding the definition and proper tax treatment of G&G costs.

Revenue Ruling 77-188

In Revenue Ruling 77-188 (hereinafter referred to as the “1977 ruling”), the IRS provided guidance regarding the proper tax treatment of G&G costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

- It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area is comprised of geological and geophysical features that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as the detailed geology of the project area to be explored, the existing information available with respect to the project area and nearby areas, and the quantity of exploration personnel, the number of personnel, and the amount of money available to conduct a reasonable exploration program over the project area.
- The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques. These techniques are designed to yield data that will afford a basis for identifying specific geological features with sufficient potential to merit further exploration.
- Each separable, noncontiguous portion of the original project area in which such a specific geological feature is identified is a separate “area of interest.” The original project area is subdivided into a number of small project areas as each is identified by the taxpayer within the original project area. If the circumstances permit a detailed exploratory survey to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.
- The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted with respect to each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield sufficiently accurate sub-surface data to afford a basis for a decision to acquire or retain within or adjacent to a particular area of interest or to abandon the entire area of interest as unworthy of development by mine or well.

The 1977 ruling provides that if, on the basis of data obtained from the preliminary geological and geophysical exploration operations, only one area of interest is located and identified within the original project area, then the entire expenditure for those exploratory operations is to be allocated to that one area of interest and thus capitalized into the cost of the mineral property of interest. On the other hand, if two or more areas of interest are located and identified within the original project area, the entire expenditure for the exploratory operations is to be allocated equally among the various areas of interest.

Effective date.—The provision is effective as to areas of interest located and identified by the taxpayer within the original project area, then the 1977 ruling states that the entire amount of the G&G costs related to such areas of interest is deductible under section 165. The loss is claimed in the taxable year in which that particular project area is abandoned as a potential source of mineral production.

A taxpayer may acquire or retain a property within or adjacent to an area of interest, based on data obtained from a detailed survey that does not relate exclusively to any discrete property within a particular area of interest. Generally, under the 1977 ruling, the taxpayer allocates the entire amount of G&G costs to the acquired or retained property as a capital cost under section 263A. If more than one property is acquired, it is proper to determine the amount attributable to each such property by allocating the entire amount of the costs among the properties on the basis of comparative acreage.

However, no property is acquired or retained within or adjacent to that area of interest, the entire amount of the G&G costs allocable to the area of interest is deductible under section 165. If for the taxable year in which such area of interest is abandoned as a potential source of mineral production.

Effective date.—The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date geological and geophysical costs.

HOUSE BILL

The provision allows geological and geophysical amounts incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment. As all basis is recovered over the two-year amortization period.

Effective date.—The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date geological and geophysical costs.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

7. Alternative technology vehicle credits (sec. 1316 of the House bill, sec. 1328 of the Senate amendment, sec. 1329 of the conference agreement, sec. 179A of the Code, and new sec. 36B of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that use only one of the following clean-burning fuels: natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or other). The maximum amount of the deduction is $50,000 for a truck or van with a
gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 for a vehicle $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle credit. In order to qualify for the credit, the vehicle must meet or exceed certain EPA emissions standards. The provision permits the credit to offset both the regular tax and the alternative minimum tax. Credits in excess of this limitation may be carried forward for up to 20 years; credits may not be carried back to earlier years.

Effective date.—The provision is effective for property placed in service after the date of enactment. See section 16, 2008.

SENATE AMENDMENT

Alternative motor vehicle credits

The Senate amendment provides a credit for each new qualified fuel cell vehicle, each new qualified hybrid motor vehicle, and each new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

For purposes of this section, the amount of the credit for any vehicle is the sum of an amount that is allowable as a credit for the purchase of a fuel cell vehicle, a hybrid automobile or light truck, or a qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year. The amount of the credit for any vehicle is based on a comparison of the fuel efficiency of the vehicle with that of a reference vehicle.

The credit amount for conservation of a qualified advanced lean burn technology vehicle is computed as follows. The vehicle is assumed to be driven 120,000 miles over its life. The 120,000 miles of lifetime mileage is divided by the fuel economy rating of the vehicle. The 120,000 miles of lifetime mileage also is divided by the 2000 model year city fuel economy in the same weight class. The difference is the lifetime fuel savings. If the vehicle achieves a lifetime fuel savings between 1,500 and 2,500 gallons of gasoline, the credit amount for the vehicle is $250. If the vehicle achieves a lifetime fuel savings of at least 2,500 gallons of motor fuel, the credit amount is $500.

The base fuel economy is the 2000 model year city fuel economy for vehicles by vehicle weight class. The credit amount for a vehicle is based on a comparison of the fuel efficiency of the vehicle with that of a reference vehicle. In order to qualify for the credit, the vehicle must be in compliance with the applicable provisions of the Clean Air Act and the motor vehicle safety standards.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in paragraph (4) of section 50(b) (relating to use by tax-exempt, governmental, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long as the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle used for personal use may not be carried back to previous years. Credits in excess of this limitation may be carried forward for up to 20 years; credits may not be carried back to earlier years. In the case of a truck or van subject to a lease, the seller of the vehicle may claim the credit so long as the seller clearly discloses to the user in a document the amount that is allowable as a credit. A vehicle used for personal use may not be carried back to previous years. Credits in excess of this limitation may be carried forward for up to 20 years; credits may not be carried back to earlier years.

Effective date.—The provision is effective for property placed in service after the date of enactment. See section 16, 2008.

Hybrid motor vehicles

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from on-board sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., batteries). A qualifying hybrid motor vehicle must be placed in service before January 1, 2010. In the case of an automobile or light truck (vehicles weighing 8,500 pounds or less), the amount of credit for the purchase of a hybrid vehicle varies with the rated fuel economy of the vehicle compared to a 2002 model year qualifying hybrid automobile or light truck. In the case of a fuel cell vehicle, the credit is equal to 30 percent of the incremental cost of the vehicle compared to a comparable vehicle powered solely by a gasoline or diesel internal combustion engine and that is comparable in weight, size, and use of the vehicle. For a vehicle that achieves a fuel economy increase of at least 50 percent but less than 60 percent, the credit is equal to 30 percent of the incremental cost of the hybrid vehicle.

In the case of a fuel cell vehicle with a fuel cell capacity of at least 500 kilograms or more, the amount of credit is equal to 20 percent of the incremental cost of the vehicle. The credit is subject to certain maximum applicable incremental cost amounts. For a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the maximum applicable incremental cost amount is $7,500. For a qualifying hybrid motor vehicle weighing more than 8,500 pounds but not more than 14,000 pounds, the maximum applicable incremental cost amount is $15,000. For a qualifying hybrid motor vehicle weighing more than 14,000 pounds, the maximum applicable incremental cost amount is $20,000.
pounds, the maximum allowable incremental cost amount is $30,000.

A qualifying hybrid motor vehicle weighing more than 6,500 pounds but not more than 8,500 pounds must have a maximum available power from the rechargeable energy storage system of at least 10 percent. A qualifying advanced lean burn technology motor vehicle weighing more than 14,000 pounds must have a maximum available power from the rechargeable energy storage system of at least 15 percent.

**Alternative fuel vehicle**

The credit for the purchase of a new alternative fuel vehicle would be 50 percent of the incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, but not more than between $4,000 and $32,000 depending upon the weight of the vehicle. Table 8, below, shows the maximum permitted incremental cost for the purpose of calculating the credit for alternative fuel vehicles by vehicle weight class.

**TABLE 6.—MAXIMUM ALLOWABLE INCREMENTAL COST FOR CALCULATION OF ALTERNATIVE FUEL VEHICLE CREDIT**

<table>
<thead>
<tr>
<th>Vehicle Gross Weight Rating in Pounds</th>
<th>Maximum Allowable Incremental Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ 8,500</td>
<td>$5,000</td>
</tr>
<tr>
<td>&gt; 8,500 ≤ 14,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>&gt; 14,000 ≤ 26,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>&gt; 26,000</td>
<td>$40,000</td>
</tr>
</tbody>
</table>

Alternative fuels comprise compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol. Qualifying alternative fuel motor vehicles are vehicles that operate on alternative fuels and are incapable of operating on gasoline or diesel fuel (except in the extent gasoline or diesel fuel is part of a qualified mixed fuel, described below).

Certain mixed fuel vehicles, that is vehicles that are capable of operation on an alternative fuel and a petroleum-based fuel, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit.

**Base fuel economy**

The base fuel economy is the 2002 model year city fuel economy for vehicles by inertia weight class by vehicle type. The “vehicle inertia weight class” is defined as vehicle type as specified by the Environmental Protection Agency for purposes of Title II of the Clean Air Act.

Table 7, below, shows the 2002 model year city fuel economy for vehicles by type and by inertia weight class.

**TABLE 7.—2002 MODEL YEAR CITY FUEL ECONOMY**

<table>
<thead>
<tr>
<th>Vehicle Inertia Weight Class (Pounds)</th>
<th>Passenger Automobile (miles per gallon)</th>
<th>Light Truck (miles per gallon)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500</td>
<td>41.7</td>
<td>24.4</td>
</tr>
<tr>
<td>1,750</td>
<td>41.7</td>
<td>24.4</td>
</tr>
<tr>
<td>2,000</td>
<td>41.7</td>
<td>24.4</td>
</tr>
<tr>
<td>2,250</td>
<td>37.5</td>
<td>21.8</td>
</tr>
<tr>
<td>2,500</td>
<td>37.5</td>
<td>21.8</td>
</tr>
<tr>
<td>2,750</td>
<td>28.8</td>
<td>26.8</td>
</tr>
<tr>
<td>3,000</td>
<td>26.4</td>
<td>24.4</td>
</tr>
<tr>
<td>3,300</td>
<td>26.4</td>
<td>24.4</td>
</tr>
<tr>
<td>3,600</td>
<td>23.8</td>
<td>20.8</td>
</tr>
<tr>
<td>4,000</td>
<td>23.8</td>
<td>20.8</td>
</tr>
<tr>
<td>4,500</td>
<td>19.9</td>
<td>18.4</td>
</tr>
<tr>
<td>5,000</td>
<td>15.9</td>
<td>16.1</td>
</tr>
<tr>
<td>5,500</td>
<td>14.4</td>
<td>14.7</td>
</tr>
<tr>
<td>6,000</td>
<td>13.7</td>
<td>13.7</td>
</tr>
<tr>
<td>6,500</td>
<td>12.8</td>
<td>12.8</td>
</tr>
<tr>
<td>7,000</td>
<td>11.3</td>
<td>12.1</td>
</tr>
<tr>
<td>7,500</td>
<td>11.3</td>
<td>12.1</td>
</tr>
</tbody>
</table>

Effective date.—The provision applies to vehicles placed in service after the date of enactment and, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

**CONFERENCE AGREEMENT**

The conference agreement follows the House bill and the Senate amendment with modifications.

**Fuel cell vehicles**

The conference agreement follows the Senate amendment with respect to fuel cell vehicles.

**Alternate fuel vehicles**

The conference agreement follows the Senate amendment with respect to alternate fuel vehicles.

**Hybrid vehicles and advanced lean-burn technology vehicles**

Qualifying hybrid vehicle

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., battery, fuel cells). A qualifying hybrid vehicle must be placed in service before January 1, 2011 (January 1, 2010 in the case of a hybrid motor vehicle weighing more than 8,500 pounds).

**HYBRID VEHICLES THAT ARE AUTOMOBILES AND LIGHT TRUCKS**

In the case of an automobile or light truck (vehicles weighing 8,500 pounds or less), the amount of credit for the purchase of a hybrid vehicle is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle (as compared to a 2002 model year standard) and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle. A qualifying hybrid automobile or light truck must have a maximum available power from the rechargeable energy storage system of at least four percent. In addition, the vehicle must meet or exceed certain EPA emissions standards.

Certain mixed fuel vehicles, that is vehicles that are capable of operation on an alternative fuel and a petroleum-based fuel, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit.

**TABLE 8.—FUEL ECONOMY CREDIT**

<table>
<thead>
<tr>
<th>Credit</th>
<th>If Fuel Economy of the Hybrid Vehicle Is</th>
</tr>
</thead>
<tbody>
<tr>
<td>$400</td>
<td>125% of base fuel economy</td>
</tr>
<tr>
<td>600</td>
<td>150% of base fuel economy</td>
</tr>
<tr>
<td>800</td>
<td>175% of base fuel economy</td>
</tr>
<tr>
<td>1,200</td>
<td>200% of base fuel economy</td>
</tr>
<tr>
<td>1,600</td>
<td>225% of base fuel economy</td>
</tr>
<tr>
<td>2,000</td>
<td>250% of base fuel economy</td>
</tr>
<tr>
<td>2,400</td>
<td>275% of base fuel economy</td>
</tr>
</tbody>
</table>

Effective date.—The provision applies to vehicles placed in service after the date of enactment and, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

**TABLE 9.—CONSERVATION CREDIT—Continued**

<table>
<thead>
<tr>
<th>Estimated Lifetime Fuel Savings</th>
<th>Conservation Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 1,200 but less than 2,400</td>
<td>$250</td>
</tr>
<tr>
<td>At least 2,450 but less than 3,000</td>
<td>$500</td>
</tr>
<tr>
<td>At least 3,000</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

**Advanced lean-burn technology motor vehicles**

The conference agreement imposes a limitation on the number of qualified hybrid motor vehicles and advanced lean-burn technology motor vehicles sold by each manufacturer of such vehicles that are eligible for the credit. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter after the quarter in which the manufacturer records its sale of the 60,000th hybrid and advanced lean-burn technology motor vehicle. Taxpayers may claim one half of the otherwise allowable credit during the two calendar quarters subsequent to the first quarter after the manufacturer has recorded its 60,000th such sale. In the third and fourth calendar quarters subsequent to the first quarter after the manufacturer has recorded its 60,000th such sale, the taxpayer may claim one quarter of the otherwise allowable credit.

Thus, summing the sales of qualifying hybrid motor vehicles of all weight classes and advanced lean-burn technology motor vehicles, if a manufacturer records the sale of its 60,000th in February of 2007, taxpayers purchasing such vehicles from the manufacturer may claim in the full amount of the credit on their purchases of qualifying vehicles through June 30, 2007. For the period July 1, 2007, through December 31, 2007, taxpayers may claim one half of the otherwise allowable credit on purchases of qualifying vehicles of the manufacturer. For the period January 1, 2008, through June 30, 2008, taxpayers may claim one quarter of the otherwise allowable credit on purchases of qualifying vehicles of the manufacturer. After June 30, 2008, no credit may be claimed for purchases of hybrid motor vehicles or advanced lean-burn technology motor vehicles sold by the manufacturer.
Hybrid vehicles that are medium and heavy trucks
In the case of a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the conference agreement follows the Senate amendment.

Other rules
The portion of the credit attributable to vehicles of a character subject to an allowance for depreciation is treated as a portion of the general business credit; the remainder of the credit is allowable to the extent of the excess of the regular tax (reduced by certain other credits) over the alternative minimum tax for that year.

Termination of Code section 179A
The conference agreement provides that section 179A sunsets after December 31, 2005.

Effective date.—The provision applies to vehicles placed in service after December 31, 2005, in the case of qualified fuel cell motor vehicles, before January 1, 2010; in the case of qualified hybrid motor vehicles that are automobiles and light trucks and in the case of advanced lean-burn technology vehicles, before January 1, 2011; in the case of qualified hybrid motor vehicles that are medium and heavy trucks, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

8. Modification and extension of credit for electric vehicles (sec. 1532 of the Senate amendment)

PRESENT LAW
A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable source of electrical current. The full amount of the credit is available for purchases prior to 2006. The credit is reduced to 25 percent of the otherwise allowable amount for purchases in 2006, and is unavailable for purchases after December 31, 2006.

HOUSE BILL
No provision.

SENATE AMENDMENT
The provision repeals the phase out of the credit in present law. The provision also modifies present law to provide for a credit equal to the lesser of $1,500 or 10 percent of the manufacturer’s suggested retail price of certain vehicles that conform to the Motor Vehicle Safety Standard 500. For all other electric vehicles, Table 10, below describes the credit.

TABLE 10.—CREDIT FOR QUALIFYING BATTERY ELECTRIC VEHICLES

<table>
<thead>
<tr>
<th>Vehicle Gross Weight Rating in Pounds</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ 4,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>4,500 &lt; vehicle ≤ 14,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>14,000 &lt; vehicle ≤ 26,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>26,000 &lt; vehicle ≤ 50,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>≥ 50,000</td>
<td>$40,000</td>
</tr>
</tbody>
</table>

If an electric vehicle weighing not more than 4,500 pounds has an estimated driving range of at least 100 miles on a single charge of the vehicle’s batteries or if it is capable of a payload capacity of at least 1,000 pounds, then the credit amount in Table 10 is $8,000.

In general, the credit is allowed to the vehicle owner, including the lessor of a vehicle subject to a lease. If the use of the vehicle is described in section 26(b)(3) or (4) of section 50(b) (relating to use by tax-exempt, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit. If the seller clears and discloses to the user in a document the amount that is allowable as a credit, a vehicle

must be used predominantly in the United States to qualify for the credit.

The provision permits the credit to offset the excess of the regular tax (reduced by certain credits) over the alternative minimum tax. Credits in excess of this limitation may be carried back for up to three years and forward for up to 20 years; credits may not be carried back or forward after the allowance before the date of enactment and credits for vehicles used for personal use may not be carried back.

Effective date.—The provision is effective for property placed in service after the date of enactment and before January 1, 2010.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

9. Credit for installation of alternative fuel refueling property (sec. 1533 of the Senate amendment, sec. 1342 of the conference agreement, and new sec. 30c of the Code)

PRESENT LAW
Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service. Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is that the fuel is delivered into the fuel tank of a motor vehicle. Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles at locations owned by the taxpayer at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is unavailable for costs incurred after December 31, 2006.

For the purpose of sec. 179A clean fuels comprises: liquefied petroleum gas, hydrogen, gasohol, and is subject to a tax of 18.3 cents per gallon. Compressed natural gas is subject to a tax of 18.3 cents per gallon. Under the Code’s coordination rules, a gasoline or motor oil tax or any product taxable under section 4081 when there is a taxable sale by any person to an owner, lessee or other operator of a motor vehicle or motorboat may be taken against the tax imposed on taxable sale. No excise tax credit is provided for the sale or use of those fuels.

Under section 4041, tax is imposed on special motor fuels (any liquid other than gas oil, fuel oil or any product taxable under section 4081). A person may also file a claim for payment equal to the amount of these credits for biodiesel or alcohol used to produce an eligible mixture. The credits and payments are paid out of the General Fund. Under section 4081(b)(3), the credit is $1.00 per gallon of fuel oil. Under section 4081(b)(4), the credit is $1.00 per gallon of alcohol.

Prior to the American Jobs Creation Act of 2004, gasohol and gasoline to be blended into gasohol was taxed at a reduced rate based on the amount of ethanol contained in the mixture (e.g., 10 percent, 7.7 percent or 5.5 percent alcohol in the mixture). The Act eliminated the use of alcohol in the mixture. Under the Code, the credit is $1.00 per gallon of ethanol and is subject to a tax of 18.3 cents per gallon.

For biodiesel other than agri-biodiesel, the credit is $1.00 per gallon of biodiesel and is subject to a tax of 18.3 cents per gallon. Compressed hydrogen gas used or sold as a fuel in the motor vehicle or motorboat is subject to a tax of 18.3 cents per gallon.

For non-agri-biodiesel, the credit is $1.00 per gallon of biodiesel and is subject to a tax of 18.3 cents per gallon. Compressed hydrogen gas used or sold as a fuel in the motor vehicle or motorboat is subject to a tax of 18.3 cents per gallon.
U.S.C. sec. 13211(2) are taxed at 18.3 cents per gallon under section 401. Compressed natural gas is taxed at 18.3 cents per energy gallon, and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon under section 401. Under section 4041 (other than in liquid or gas form) is exempt from the tax imposed by section 401; however, persons selling hydrogen as fuel are required to register with the Secretary. Collectively, these fuels (including hydrogen) are referred to as "alternative fuels."

In addition, the Senate amendment creates two new excise tax credits, the biodiesel fuel credit, and the alternative fuel mixture tax credit. The credits are allowed against section 4041 liability. The alternative fuel credit is 50 cents per gallon of alternative fuel or gasoline gallon equivalents of nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle. The alternative fuel mixture credit is 50 cents per gallon of alternative fuel used in producing an alternative fuel mixture for sale or use in a trade or business of the taxpayer. The mixture must be sold by the taxpayer for use in a highway vehicle or by the taxpayer for use as a fuel in a highway vehicle. Liquid hydrocarbons derived from coal should qualify if the credits are derived from the Fischer-Tropsch process. The credits generally expire after September 30, 2009. The provision also allows persons to file a claim for payment equal to the amount of the alternative fuel mixture tax credit and alternative fuel mixture credits. These payment provisions generally also expire after September 30, 2009. With respect to hydrogen, the credit and payment provisions expire after December 31, 2014. Both credits and payments are made out of the General Fund. Under coordination rules, a claim for payment or credit claimed for both income and excise tax purposes with respect to biodiesel cannot be claimed for both income and excise tax purposes.

Effective date.—The provision is effective for any sale, use or removal for any period after September 30, 2006.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Extend excise tax provisions and income tax credit for biodiesel and create similar incentives for renewable diesel (sec. 1524, Senate amendment; secs. 1344 of the conference agreement, and secs. 40A, 6426 and 6427 of the Code)

PRESENT LAW

Biodiesel income tax credit

Overview

The Code provides an income tax credit for biodiesel and qualified biodiesel mixtures, the biodiesel fuels credit.80 The biodiesel fuels credit is the sum of the biodiesel mixture credit and the biodiesel credit. The biodiesel mixture credit is to be taken into account first, and any biodiesel credit is to be taken into account after biodiesel mixture credit. The biodiesel mixture credit is 50 cents for each gallon of biodiesel fuel used as a fuel in a highway vehicle or by the taxpayer for use as a fuel in a highway vehicle. Liquid hydrocarbons derived from coal should qualify if the credits are derived from the Fischer-Tropsch process. The credits expire generally after September 30, 2009.

Effective date.—The provision is effective for any sale, use or removal for any period after September 30, 2006.

No provision.

 Senate amendment extends the income tax credit, excise tax credit, and payment provisions through December 31, 2010.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement extends the income tax credit, excise tax credit, and payment provisions through December 31, 2008. The conference agreement also creates a similar income tax credit, excise tax credit and payment system for renewable diesel; however, there is no credit for small producers of renewable diesel. Renewable diesel means diesel fuel derived from biomass (as defined in section 29(c)(2)(A), excluding petroleum oil, natural gas, coal, or any product thereof) using a thermal depolymerization process. Renewable diesel must meet the requirements of section 29(c)(3), (as added by the Energy Policy Act of 2005).

The conference agreement extends the biodiesel fuels credit to December 31, 2009. With respect to hydrogen, the credit is available for use as a fuel in a highway vehicle, the credit is 24.3 cents per gallon under section 4041. Compressed natural gas is taxed at 18.3 cents per energy gallon under section 4041. The biodiesel credit is 50 cents for each gallon of biodiesel used by the taxpayer as a fuel in the production of a qualified biodiesel mixture. For agri-biodiesel, the credit is $1.00 per gallon. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel that is (1) sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture to be placed in the fuel tank of such person's vehicle. For agri-biodiesel, the credit is $1.00 per gallon. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel that is (1) sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture. No credit is allowed unless the taxpayer obtains a certification that identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product. The biodiesel mixture credit is 50 cents for each gallon of biodiesel fuel used as a fuel in the production of a qualified biodiesel mixture. For agri-biodiesel, the credit is $1.00 per gallon. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel that is (1) sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture. No credit is allowed unless the taxpayer obtains a certification that identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product. The credit is not available for any sale or use for any period after December 31, 2006. This excise tax credit is coordinated with the income tax credit for biodiesel such that the credit for the same biodiesel cannot be claimed for both income and excise tax purposes.

Payments with respect to biodiesel fuel mixtures

If any person produces a biodiesel fuel mixture in such person's trade or business, the Secretary is to pay such person an amount equal to the biodiesel mixture credit. To the extent the biodiesel mixture credit exceeds the section 4081 liability of a person, the Secretary is to pay such person an amount equal to the biodiesel mixture credit with respect to such mixture. Thus, if the person has no section 4081 liability, the credit is refundable. The payment provision does not apply with respect to biodiesel fuel mixtures sold or used after December 31, 2006.

House bill

The provision provides a 20-percent credit for the purchase of qualified energy efficiency improvements to existing homes.

House bill

The provision extends the 20-percent credit for the purchase of qualified energy efficiency improvements to existing homes. The maximum credit for a taxpayer with respect to energy efficiency improvements to existing homes is $2,000. A qualified energy efficiency improvement is any energy efficiency building envelope component that meets or exceeds the 1990 criteria or a component established by the 2002 International Energy Conservation Code as supplemented and as in effect on the date of enactment (or, in the case of metal roofs with appropriate pigmented coatings, meets the Energy Star program requirements), and (1) that is installed in or on a dwelling located in the United States; (2) owned and used by the taxpayer as the taxpayer's principal residence; (3) the original use of which commences with the taxpayer; and (4) such component reasonably can be expected to reduce the energy consumed or used by the dwelling unit by at least five years. The credit is nonrefundable.

Building envelope components are: (1) insulation materials or systems which are specifically and primarily designed to reduce the heat loss or gain for a dwelling; (2) exterior windows (including skylights) and doors; and (3) metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat loss or gain for a dwelling. The section 25C credit in the property is reduced by the amount of the credit. Special rules apply in the case of condominiums and tenant-stockholders in cooperative housing corporations.

In the case of expenditures that exceed $1,000, certain certification requirements...
Energy efficiency improvements under this provision, the original condition of the home, or the comparable building in the case of a new home, is determined assuming the building contains the property for which the credit is allowed. Any credit allowed under this provision for any expenditure, the increase in the basis of the property that would result from such expenditure is reduced by the amount of the credit. In order to be eligible for the credit, the residence’s energy savings must be demonstrated by performance-based compliance with the energy efficiency requirements established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Construction Calculation Method Approval Manual. The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPLA), or an accredited home energy rating system provider. All property is to be documented, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

Special proration rules apply in the case of jointly owned property, condominiums, and tenant-stockholders in cooperative housing corporations. Certain restrictions and limitations apply with respect to property financed by subsidized energy financing or obtained through grant programs. If less than 80 percent of the property is used for non-business purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account. If a credit is allowed with respect to any property, the basis of such property is reduced by the amount of the credit so allowed.

Effective date.—The credits apply to property placed in service after December 31, 2005 and prior to January 1, 2009.

The conference agreement follows the House bill with respect to energy efficient improvements to the building envelope, but the credit rate is reduced to 16 percent. The conference agreement includes the Senate amendment provisions related to (1) advanced main air circulating fans, (2) natural gas, propane, or oil water heater which has an energy efficiency ratio (EER) of at least 3.5, (3) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 13, and (5) a natural gas, propane, or oil water heater which has a heating coefficient of performance (COP) of at least 3.3.

Credit for existing buildings is limited to an amount equal to $2.25 per square foot of the building, which such expenditures are made. The deduction is allowed in the year in which the property is placed in service. The certification requirements must be met in order to qualify for the deduction.

The House amendment provisions related to (1) improved energy efficiency, including transmission losses; (2) the minimum requirements of Standard 90.1–2001 (as in effect on April 2, 2003). The deduction is limited to an amount equal to $2.25 per square foot of the building, which such expenditures are made. The deduction is allowed in the year in which the property is placed in service.

The conference agreement also modifies the effective date. The credits apply to property placed in service after December 31, 2005 and prior to January 1, 2009.

The conference agreement also modifies the effective date. The credits apply to property placed in service after December 31, 2005 and prior to January 1, 2009.

The conference agreement also modifies the effective date. The credits apply to property placed in service after December 31, 2005 and prior to January 1, 2009.

No special deduction is provided for expenditures incurred for energy-efficient commercial building property.
Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems. Individuals qualified to determine compliance shall only be those recognized by one of such accreditations certified by the Secretary for such purposes.

For energy-efficient commercial building property, properties made by a public entity, such as public schools, the Secretary shall promulgate regulations that allow the deduction to be allocated to the person primarily responsible for designing the property in lieu of the public entity. If a deduction is allowed under this section, the basis of the property shall be reduced by the amount of the deduction.

Effective date.—The provision is effective for property placed in service after December 31, 2005 and prior to January 1, 2008. 14. Deduction for business property energy (sec. 1523 of the Senate amendment) placing in service after the date of enactment, and (3) certified by a professional as meeting the applicable system-specific data targets established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative Calculations Method Approaches. The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

For energy-efficient residential rental building property owned by a Federal, State, or local government or political subdivision thereof, the Secretary shall promulgate regulations that allow the deduction to be allocated to the person primarily responsible for designing the property in lieu of the public entity. No deduction for energy-efficient residential rental property is allowed for any property for which a deduction is allowed under Code section 179D (as added by the bill), relating to the deduction for energy efficient commercial building property. If a deduction is allowed under this provision with respect to any property, the basis of such property is reduced by the amount of the deduction.

Effective date.—The credit applies to property placed in service after the date of enactment and prior to January 1, 2009.

The conference agreement does not include the Senate amendment provision. 15. Energy efficient new homes (sec. 1522 of the Senate amendment provision.

The provison provides a deduction equal to the greater of (1) the allowable deductions for the purchase of certain property, or (2) the allowable deduction with respect to energy-efficient residential rental building properties. The allowable deduction for the purchase of certain property is (1) $150 for each advanced main air circulating fan, (2) $450 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $900 for each item of qualified energy efficient property.

An advanced main air circulating fan is a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, and which has an annual fuel utilization efficiency rate of at least 93.5 percent. The provision provides a credit equal to the greater of (1) the allowable deduction with respect to energy-efficient residential rental building properties, or (2) the allowable deduction with respect to energy-efficient commercial building property.
and $2,000 in the case of a new home that meets the 50 percent standard.

The eligible contractor is the person who constructed the home, or in the case of a manufactured home, the producer of such home. The Committee intends that the building envelope component means insulation materials or system specifically and primarily designed to prevent that loss or gain, exterior windows (including skylights), doors, and any duct sealing and infiltration reduction materials.

Manufactured homes that conform to federal manufactured home construction and safety standards are eligible for the credit provided by section 38(h) of the Code. The conference agreement specifies that the credit is provided for the $1,000 credit provided criteria (1) and (2), above, are met.

The credit is part of the general business credit system attributable to energy efficient homes that can be carried back to any taxable year ending on or before the effective date of the credit. Effective date.—The credit applies to homes whose construction is substantially completed after 60 days prior to the date of enactment and ending on December 31, 2009 (December 31, 2007 in the case of the $1,000 credit).

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the credit related to homes meeting the 30-percent efficiency standard applies only to manufactured homes that are constructed after 2008 and prior to January 1, 2011. Additionally, the provision specifies that the credit applies only to manufactured homes, or (ii) $150 credit if manufactured in 2005 or 2006, or (iii) $100 credit if manufactured in 2007. Refrigerators that achieve at least a 25 percent energy saving receive a (i) $75 credit if manufactured in 2005–2007, or (ii) $150 credit if manufactured in 2008–2010.

Appliances eligible for the credit include only those that exceed the average amount of production from the 3 prior calendar years for each category of appliance. In the case of refrigerators, eligible production is production that exceeds 110 percent of the average amount of production from the 3 prior calendar years. Proration rules apply in the case of credits for 2005 production. The credit applies to residential dishwashers and to residential clothes washers certified under a new 25 percent efficiency standard that satisfies the relevant efficiency standard.

The credit may not exceed $150 million for all taxable years, and may not exceed $10 million with respect to clothes washers eligible for the $50 credit and refrigerators eligible for the $75 credit. A taxpayer may elect to increase the $20 million limitation described above to $25 million provided that the aggregate amount of credits with respect to such appliances, plus refrigerators eligible for the $100 and $125 credits, is limited to $50 million for all taxable years.

Additionally, the credit allowed in a tax year for all appliances may not exceed two percent of the average annual gross receipts of the taxpayer for the three taxable years preceding the taxable year in which the credit is determined.

The credit is part of the general business credit. Effective date.—The credit applies to appliances produced after the date of enactment and prior to January 1, 2011 (January 1, 2008, in the case of dishwashers).
Generally, for taxable years beginning after December 31, 2005, nonrefundable personal credits may not exceed the excess of the regular tax liability over the tentative minimum tax.

HOUSE BILL

The provision allows the personal energy credits added by the House bill to offset both the regular tax and the alternative minimum tax.

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not contain the House bill provision.

2. Allow certain business energy credits against the alternative minimum tax (sec. 1322 of the House bill and sec. 1548(c) of the Senate amendment)

PRESENT LAW

Present law imposes an alternative minimum tax on individuals and corporations in an amount equal to the excess of the tentative minimum tax over the regular tax liability as exceeds $25,000. Generally, the general business credit may not exceed the excess of the regular tax liability over an exemption amount.

The Senate amendment expands the list of business energy credits for which the tentative minimum tax is treated as being zero to include: (i) the low sulfur diesel fuel production credit, (ii) and gas well drilling and development credit, (iii) the portion of the investment credit attributable to qualified fuel cells, and (iv) taxable years beginning after December 31, 2005, and before January 1, 2008, the enhanced oil recovery credit.

Effective date.—The provision generally applies to amounts paid or incurred after April 11, 2005. In the case of the credit for qualified fuel cells, the provision applies for taxable years ending after April 11, 2005.

SENATE AMENDMENT

The Senate amendment expands the list of business energy credits for which the tentative minimum tax is treated as being zero to include the credit for production of coal owned by Indian tribes.

Effective date.—The provision is effective as if included in the provision allowing the credit.

CONFERENCE AGREEMENT

The conference agreement does not expand the list of business energy credits for which the tentative minimum tax is treated as being zero.

D. ADDITIONAL ENERGY TAX INCENTIVES

1. Ten-year recovery period for underground natural gas storage facilities and cushion gas (sec. 1542 of the Senate amendment)

PRESENT LAW

Under present law, depreciation allowances for property used in a trade or business generally are determined under the Modified Accelerated Cost Recovery System (“MACRS”). Under MACRS, natural gas storage facilities and related equipment have a class life of 22 years and a recovery period of 15 years. Cushion gas is the minimum volume of natural gas necessary to provide the pressure to facilitate the flow of gas from a storage reservoir to a pipeline. Recoverable cushion gas will be available for sale or other use upon abandonment of the storage reservoir, while nonrecoverable cushion gas will become obsolete with that abandonment. Under present law, the tax treatment of cushion gas depends on whether such gas is and may be recovered: (i) that is recoverable is subject to deprecia-

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tion because it is not subject to exhaustion, wear, tear, or obsolescence. Conversely, non-

recoverable cushion gas is subject to obsolesc-

cence and is therefore subject to tax depre-

ciation. The depreciable life of non-recover-

cable cushion gas is also 15 years.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reclassifies underground natural gas storage facilities and nonrecoverable cushion gas as 10-year property. Present law treats the recovery of recoverable cushion gas remains unchanged.

Effective date.—The Senate amendment provision applies to property placed in service after the date of enactment, the original use of which commences with the taxpayer.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Modify research credit for research relating to energy (sec. 1542 of the Senate amendment, sec. 1351 of the conference agreement, and sec. 41 of the Code)

PRESENT LAW

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer’s qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will not apply to amounts paid or incurred after December 31, 2005.

A 20-percent research tax credit also applies to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions to certain educational research, conducted by universities and nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as ad-

dusted under the general rule.

Effective date.—The provision generally applies after December 31, 2005, and before January 1, 2008, the enhanced oil recovery credit.

Effective date.—The provision applies to energy research (sec. 1542 of the Senate amendment). To the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of the taxpayer’s average gross receipts for the four preceding years but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2.65 percent. A credit rate of 3.75 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2.65 percent.

An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election may be revoked by the taxpayer within the taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Eligible expenses

Qualified research expenses eligible for the research tax credit consist of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted by the taxpayer (so-called contract research expenses). In the case of amounts paid to a research consortium, the 65 percent of amounts paid for research is treated as such expenses eligible for the research credit (rather than 65 percent under the general rule) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research (and not for profit); or (2) such research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

No provision.

SENATE AMENDMENT

The provision modifies the present-law research credit as it applies to qualified energy research. In particular, the provision provides that the credit may claim a credit equal to 20 percent of the taxpayer’s expenditures qualified under the general rule for the research credit, the 20-

percent credit for research by an energy research consortium, the amount of credit claimed is determined only by regard to such expenditures by the taxpayer within the taxable year. Unlike the general rule for the research credit, the 20-

percent credit for research by an energy research consortium applies to all such expenditures by the taxpayer within the taxable year. Unlike the general rule for the research credit, the 20-

percent credit for research by an energy research consortium applies to all such expenditures by the taxpayer within the taxable year.
The provision also provides that 100 percent of the patron's share of the tax credit obtained by the taxpay-er to eligible small businesses, universities, and Federal for qualified energy re-search would constitute qualified research expenditures for purposes of section 40A of the Code.

Alternative energy sources or the use of alternative energy sources. For example, re-search relating to hydrogen fuel cell vehicles would qualify under this provision, if the re-search-er otherwise satisfy the criteria of present-law sec. 41. Likewise, other-wise qualifying research undertaken to improve the energy-efficiency of lighting would qualify under this provision.

The credit is a treated as a general business credit, subject to the ordering rules and the carryforward/carryback rules that apply to business generally. The alcohol fuels tax credits are in-terest credits, and Federal for qualified energy re-search expenditures otherwise satisfy the criteria of present-law sec. 41. Likewise, other-wise qualifying research undertaken to improve the energy-efficiency of lighting would qualify under this provision.

Effective date.—The provision is effective for amounts paid or incurred after the date of enactment in taxable years ending after such date.

PRESENT LAW
Biodiesel income tax credit

The Code provides an income tax credit for biodiesel and qualified biodiesel mixtures, the biodiesel tax credit. The biodiesel tax credit is the sum of the biodiesel mixture credit plus the biodiesel credit and is treated as a general business credit. The amount of the biodiesel tax credit is includable in taxable gross income. The biodiesel fuels credit is co-ordinated to take into account benefits from the biodiesel tax credit and payment provisions created by the Act. The credit may not be carried back to a taxable year ending before or on December 31, 2004. The provision does not apply to fuel sold or used after December 31, 2004.

Biodiesel is monoalkyl esters of long chain fatty acids derived from plant or animal fats, oils, or tallow that meet (1) the registration re-quirements established by the Environmental Protection Agency under section 211 of the Clean Air Act and (2) the requirements of the American Society of Testing and Mat-erials D6751. Agri-biodiesel is biodiesel de-ivered solely from virgin oils including oils from corn, soybeans, sunflower seeds, canna-ropses, rapeseeds, safflower oils, flaxseeds, rice bran, mustard seeds, or ani-mal fats.

Biodiesel may be taken into account for purposes of the credit only if the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which certifies that the product produced by the tax-pay-er is biodiesel and that the percentage of the biodiesel and agri-bio-diesel in the product.

The biodiesel income tax credit does not contain any incentives for small producers.

Small ethanol producer credit

Present law provides several tax benefits for ethanol and methanol produced from re-

newable sources that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. In the case of ethanol, a separate 10-cents-per-gallon credit is allowed for small ethanol producers, defined generally as persons whose production does not exceed 5 million gallons per year and whose production capacity does not exceed 60 million gallons per year. The ethanol tax credit is (1) sold by such producer to another person (a) for use by such other person in the production of any qualified alcohol fuel mixture in such per-son's trade or business (other than casual-off-farm production), (b) for use by such other person in the production or retail of fuel or that are blended with other fuels (e.g., gasoline) for such a use. For example, the Code provides an income tax credit for alcohol and alcohol-blended fuels. In the case of ethanol, the Code provides an additional 10-cents-per-gallon credit for small pro-

ducers defined generally as persons whose annual production capacity does not exceed 30 mil-

lion gallons per year.

The Senate amendment also provides that a cooperative may elect to pass through any biodiesel producer credit to its pa-

trons. The credit is ap-

plied to eligible small businesses, univer-

sities, and Federal for alternative energy sources that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. In the case of ethanol, a separate 10-cents-per-gallon credit is allowed for small ethanol producers, defined generally as persons whose production does not exceed 5 million gallons per year and whose production capacity does not exceed 60 million gallons per year. The ethanol tax credit is (1) sold by such producer to another person (a) for use by such other person in the production of any qualified alcohol fuel mixture in such per-

son's trade or business (other than casual-off-farm production), (b) for use by such other person in the production or retail of fuel or that are blended with other fuels (e.g., gasoline) for such a use. For example, the Code provides an income tax credit for alcohol and alcohol-blended fuels. In the case of ethanol, the Code provides an additional 10-cents-per-gallon credit for small pro-

ducers defined generally as persons whose annual production capacity does not exceed 30 mil-

lion gallons per year.

The credit sunsets after December 31, 2010, along with the other biodiesel incentives as extended under the Senate amendment.

The Senate amendment increases the limit on production capacity for small ethanol producers from 30 million gallons to 60 mil-

lion gallons per year.

The conference agreement follows the Senate amendment except the credit sunsets after December 31, 2008.

There is no present law credit for equipment for processing or sorting materials gathered through recy-

cling (sec. 1545 of the Senate amendment and sec. 1353 of the conference agree-

ment).

Present law provides a 15-percent busi-

ness tax credit for the cost of qualified recy-

cling equipment placed in service or leased by the taxpayer. Qualified recycling equip-

ment is equipment that is primarily used for (1) the shredding and processing of any elec-

tronic waste, including any cathode ray tube, flat panel screen, or any video display device with a screen size greater than four inches measured diagonally, or a central processing unit. Recycling equipment does not include rolling stock or other equipment used to transport recyclable materials. Materials
that are not packaging or printed material, such as tires or scrap metal from junked automobiles, are not qualified recyclable materials, and thus equipment used to process such materials are not qualified recycling equipment.

For the purposes of (1), qualified recycling equipment includes equipment that is utilized at public recycling centers, such as recycling collection centers, where the equipment is utilized to sort or process qualified recyclable materials for such purpose. For the purpose of (2), only the cost of each piece of equipment as exceeds $400,000 is eligible for the credit.

Effective date. The tax credit applies to amounts paid or incurred during the taxable year for qualified recycling equipment placed in service or leased in taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision. The conference agreement directs the Secretary of the Treasury, in consultation with the Secretary of Energy, to conduct a study to determine and quantify the energy savings achieved through the recycling of glass, paper, metal, plastic, electronic, and other similar materials, and to identity tax incentives that would encourage recycling of such materials. The study is to be submitted to Congress within one year of the date of enactment.

Effective date. The provision is effective on the date of enactment.

6. Five-year carryback of net operating losses for certain electric utility companies (sec. 1546 of the Senate amendment, sec. 1311 of the conference agreement, and sec. 172 of the Code)

PRESENT LAW

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryover of an NOL reduces Federal income tax for the carryover year.

In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years. Under present-law ordering rules, NOLs generally are first deducted in order of the year in which the NOL arose. Only NOLs arising in taxable years ending in 2003, 2004, and 2005 ("eligible years") are eligible for the credit. The portion of the loss year NOL to which the credit applies is limited to 20 percent of the amount of the taxpayer's qualifying investment in the taxable year in which the NOL arises. The portion of the NOL taken under this credit is limited to 60 percent of the amount of the credit otherwise generally available under section 163 and the loss year NOL remains subject to the present-law NOL ordering rules. Thus, for example, a taxpayer with 2004 NOLs may elect to forgo the five-year carryback period provided under the provision if an election is filed before January 1, 2009. The portion of the NOL lost as a result of the five-year carryback period is subject to the present-law NOL ordering rules.

The conference agreement provides an election for certain electric utility companies to extend the carryback period to five years for a portion of NOLs arising in 2003, 2004, and 2005 ("the extended carryback period"). The present-law NOL carryover rules apply. Taxpayers and utility companies may elect the extended carryback period provided under the provision if an election is filed before January 1, 2009, and before January 1, 2009 ("election years"). An electing taxpayer may only elect the extended carryback period for certain utility company's taxable years ending after December 31, 2005, and before January 1, 2009 ("election years"). An electing taxpayer may only elect the extended carryback period for certain utility company's taxable years ending after December 31, 2005, and before January 1, 2009 ("election years").

The portion of the loss year NOL to which the election applies is limited to 20 percent of the amount of the taxpayer's qualifying investment in the taxable year in which the NOL arises. Rules similar to those applicable to specified liability losses apply, and any remaining portion of the loss year NOL remains subject to the present-law NOL ordering rules. Only one election may be made during any election year, and elections may not be made for more than one election year beginning in the same calendar year. Thus, for example, a taxpayer with two short taxable years beginning in calendar year 2006 is eligible to make an election under this provision in only one of those two taxable years. Once an election has been made with respect to a loss year, no subsequent election is available with respect to that loss year.

For purposes of calculating interest on overpayments, any overpayment resulting from a four-year NOL carryback elected under this provision is deemed not to have been made prior to the limited for the taxable year in which the election is made. The statute of limitations for refund claims, and that for assessment of deficiencies, are also extended.

An election under this provision is made in such manner as the Secretary may prescribe. However, the conference agreement provides that the filing of a statement specifying the election year, the loss year, and the amount of qualifying investment in electric transmission property and pollution control facilities in the carryback period is required.

Under the conference agreement, an investment in electric transmission property qualifying as a pollution control facility made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electric utility company's investment in electric transmission property or pollution control equipment and the date the property is placed in service. Accordingly, there is no requirement that the property or pollution control facilities be placed in service in the year in which the capital expenditures are incurred. However, it is intended that the following investments are included in the taxpayer's qualifying investment in electric transmission property or pollution control facilities in the year in which the capital expenditures are incurred.

An investment in pollution control equipment qualifies if it is a capital expenditure, made by an electric utility company (as defined in the Public Utility Holding Company Act as in effect on the day before the date of enactment of the provision), which is attributable to a facility which will qualify as a certified pollution control facility generally defined in the Public Utility Holding Company Act as amended in 1976 but without regard to the requirements therein that the facility be new or that it be used in connection with a plant or other property in operation before January 1, 1976.

The conference recognize that a significant amount of time may be required between the date of a capital expenditure for electric transmission property or pollution control equipment and the date the property is placed in service. Accordingly, there is no requirement that the property or pollution control facilities be placed in service in the year in which the capital expenditures are incurred. However, it is intended that the following investments are included in the taxpayer's qualifying investment in electric transmission property or pollution control facilities in the year in which the capital expenditures are incurred.

Effective date. The conference agreement provision is effective for elections made in taxable years ending after December 31, 2005, and before January 1, 2009, with respect to net operating losses that occurred prior to January 1, 2009. There is no tax credit for investment in pollution control equipment. An investment credit is available for investment in certain energy property.

PRESENT LAW

There is no tax credit for investment in pollution control equipment. An investment credit is available for investment in certain energy property.

Senate Amendment

The Senate amendment provides an investment credit for qualifying pollution control equipment. The credit is an amount equal to 15 percent of the basis of qualifying pollution control equipment placed in service at a pollution control facility during the taxable year. Qualifying pollution control equipment means any technology that is installed in order to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the
Clean Air Act, including thermal oxidizers, scrubber systems, vapor recovery systems, low nitric oxide burners, flaire systems, bag houses, cyclones, and continuous emission monitoring systems. Qualifying facility is a facility that produces not less than 1,000,000 gallons of ethanol during the taxable year. For depreciation purposes, the basis of an asset (including any qualified modification) is reduced by 50 percent of the amount of the credit.

In the case of property constructed over a period of two or more years, a taxpayer may elect to claim the credit on the basis of qualified progress expenditures made during the period of construction before the property is completed and placed in service.

Effective date.—The credit applies to periods after the date of enactment in accordance with the rules set forth in 48(m) (as in effect before its repeal).

The conference agreement does not include the Senate amendment provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision offers a $600 credit for the replacement of a non-compliant wood stove with a solid fuel burning stove that complies with the U.S. Environmental Agency’s (‘‘EPA’’) emission performance standards. In general, a non-compliant wood stove is any wood stove purchased prior to June 30, 1992, that does not meet the EPA’s Standards of Performance for Residential Wood Heaters. The credit is only available for replacements that occur after the date in effect before its repeal.

Effective date.—The credit applies to solid fuel burning stoves purchased after the date of enactment and before January 1, 2009.

The conference agreement does not include the Senate amendment provision.

8. Credit for production of coal owned by Indian tribes (sec. 1548 of the Senate amendment)

PRESENT LAW

Present law provides two income tax incentives for businesses operating within Indian reservations: (1) accelerated depreciation on certain non-gaming property used in a trade or business within an Indian reservation (sec. 188c)); and (2) a nonrefundable income tax credit to employ- ers on the first $20,000 of qualified wages and health care costs paid to certain members of Indian tribes (or their spouses) who work on or near an Indian reservation and who earn less than $30,000 per year (adjusted for infla-


Present law does not provide a credit for the production of coal from coal reserves owned by an Indian tribe.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision establishes a credit for ‘‘Indian coal’’ sold to an unrelated person. Indian coal is defined as coal produced from coal reserves that on June 14, 2005, were owned by a Federally recognized tribe of Indian or are held in trust by the United States for a tribe or its members.

The amount of the credit equals $1.50 per ton for coal sold in 2006 through 2009 and $2.50 per ton for coal sold after 2009. The credit is allowed for after 2006, is part of the general business credit (sec. 38), and is allowed against the alternative minimum tax.

Effective date.—The provision applies to Indian coal sold after December 31, 2005, and before January 1, 2013.

The conference agreement generally follows the Senate amendment with some modifications. Under the conference agreement, the credit for Indian coal is added by modifying Code section 45, rather than by amending Code section 38 and creating new Code section 45N. As a result, some technical aspects of the credit are changed. These technical aspects are described in section A.9. of this memorandum. Because of the significant changes in descriptions of other modifications to Code section 45.

9. Replacement stoves meeting environ-

cmental standards in non-attainment areas (sec. 1549 of the Senate amend-

PRESENT LAW

There is no present law tax credit relating to stoves.
For purposes of the exclusion for van pooling benefits, a commuter highway vehicle is any highway vehicle: (1) the seating capacity of which is at least six adults (excluding the capacity of such vehicle (not including the driver).

The maximum amount of qualified parking that is excludable from income and wages is $200 per month (for 2005). The maximum amount of transit passes and vanpooling benefits that are excludable from income and wages is $105 (for 2005). These dollar amounts are indexed for inflation.

### Conference Agreement

#### Tax-exempt bonds

**In general**

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if such bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Interest on State or local government activities of private persons ("private activity bonds") is taxable unless a specific exception is contained in the Code (or in a non-Code provision) generally includes the Federal Government and all other individuals and entities other than States or local governments.

**Qualified private activity bonds**

Private activity bonds are eligible for tax-exemption if issued for purposes permitted by the Code ("qualified private activity bonds"). The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. The definition of exempt facility bond includes bonds issued to finance local district heating and cooling facilities.

The issuance of most qualified private activity bonds is subject to annual State volume limitations ("State volume cap"). For calendar year 2005, the State volume cap is the greater of $30 per citizen of the State or $35 million at a greater rate calculated; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) be operated by the terminal operator (who operates the terminal rack from which the fuel is unloaded) or by a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or tank wagon.

#### Revenue Raising Provisions

1. **Treatment of kerosene for use in aviation**

   The conference agreement does not include the Senate amendment provision.

2. **Three-year applicable recovery period for depreciation of qualified energy management devices**

   The Senate amendment provides an exception from the State volume cap for certain qualified private activity bonds issued to finance certain local district heating or cooling facilities. Specifically, State volume cap does not apply to bonds issued to finance local district heating or cooling facilities. In order to qualify for the special rule, a refueling truck, tanker, or tank wagon must: (1) be loaded with fuel for delivery only into air- craft; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) be operated by the terminal operator (who operates the terminal rack from which the fuel is unloaded) or by a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or tank wagon.

3. **Revenue Raising Provisions**

   The conference agreement does not include the Senate amendment provision.

#### Senate Amendment

The Senate amendment imposes the kerosene tax rate of 24.3 cents per gallon if kerosene is removed directly into the fuel tank of an aircraft apply. In addition, under the provision, the rate of tax is 21.8 cents per gallon if kerosene is removed directly into the fuel tank of an aircraft for use in aviation other than commercial aviation and (2) from which no vehicle licensed for highway use is loaded with aviation fuel, except in exigent circumstances (including the security requirement, the Secretary of Treasury, and the Administrator of the Federal Aviation Administration) in order to qualify for the special rule, a refueling truck, tanker, or tank wagon must: (1) be loaded with fuel for delivery only into air- craft; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) be operated by the terminal operator (who operates the terminal rack from which the fuel is unloaded) or by a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or tank wagon.

#### House Bill

No provision.

#### Senate Amendment

The Senate amendment imposes the kerosene tax rate of 24.3 cents per gallon upon the entry or removal of aviation-grade kerosene from the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of the fuel. In general, the present law reduced rates for removals of aviation-grade kerosene directly into the fuel tank of an aircraft apply. In addition, under the provision, the rate of tax is 21.8 cents per gallon if kerosene is removed directly into the fuel tank of an aircraft for use in aviation other than commercial aviation and (2) from refueling trucks, tankers, and tank wagons that are loaded with fuel from a terminal into an airport, without regard to whether the terminal is located in a secured area of the airport, as long as all the other requirements of the present law applicable to such trucks, tankers, and wagons are met. The provision clarifies that the rate of tax upon removal of kerosene is zero if the removal is from a fuel at a terminal on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of such fuel. Aviation-grade kerosene may be removed at a reduced rate, either 4.3 or zero cents per gallon, if the aviation fuel is removed directly into the fuel tank of an aircraft for use in commercial aviation and for use that is exempt from the tax imposed by section 4041 on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of such fuel. Aviation-grade kerosene that meets all of the requirements of present law, including the security requirement, the kerosene is delivered directly into the fuel tank of an aircraft, is exempt from the tax imposed by section 4041(c) (other than by prior imposition of tax).
The Senate amendment provides that amounts may be claimed as credits or refunds for kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes. In the case of diesel fuel or kerosene used on a farm for farming purposes, refund payments are paid to the ultimate registered vendor ("registered ultimate vendor") of such fuel. The registered ultimate vendor that sells undyed diesel fuel or undyed kerosene to any of the following may make a claim for refund: (1) the owner, tenant, operator, or agent of a farm on which the farm is used for farming purposes; and (2) a person other than the owner, tenant, or operator of a farm for use by that person on a farm for farming purposes.

The registered ultimate vendor is the only person who may make the claim with respect to diesel fuel or kerosene used on a farm for farming purposes. The purchaser of the fuel cannot make the claim for refund.

Registered ultimate vendors may make weekly claims if the claim is at least $200 ($100 or more in the case of kerosene). If not paid within 45 days (20 days for an electronic claim), the Secretary is to pay interest on the claim.

Effective date.—The provision is effective for sales after September 30, 2005.

No provision.

SENA The Senate amendment repeals ultimate vendor refund claims in the case of diesel fuel or kerosene used on a farm for farming purposes. Thus, refunds for taxed diesel fuel or kerosene used on a farm for farming purposes would be paid to the ultimate purchaser under the rules applicable to non-taxable uses of diesel fuel or kerosene.

Effective date.—The provision is effective for sales after September 30, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the pre-existing statute governing ultimate vendor refund claims in the case of diesel or kerosene used on a farm for farming purposes. Instead of making the claim with respect to diesel fuel or kerosene used on a farm for farming purposes, the ultimate vendor must claim a credit on the farm for farming purposes. The ultimate vendor must claim a credit on the farm for farming purposes.

Special vendor rule for use on a farm for farming purposes.—In the case of diesel fuel or kerosene used on a farm for farming purposes, refund payments are paid to the ultimate registered vendor ("registered ultimate vendor") of such fuel. The registered ultimate vendor that sells undyed diesel fuel or undyed kerosene to any of the following may make a claim for refund: (1) the owner, tenant, operator, or agent of a farm on the farm for farming purposes; and (2) a person other than the owner, tenant, or operator of a farm for use by that person on a farm in connection with farming or horticulture.

The registered ultimate vendor is the only person who may make the claim with respect to diesel fuel or kerosene used on a farm for farming purposes. The purchaser of the fuel cannot make the claim for refund.

Registered ultimate vendors may make weekly claims if the claim is at least $200 ($100 or more in the case of kerosene). If not paid within 45 days (20 days for an electronic claim), the Secretary is to pay interest on the claim.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENC The conference agreement does not include the Senate amendment provision.

3. Refunds of excise taxes on exempt sales of taxable fuel by credit card (sec. 1563 of the Senate amendment)

PRESENT LAW

Under the rules in effect prior to 2005, in the case of gasoline on which tax had been paid and sold to a State or local government, to a nonprofit educational organization, for its exclusive use, a credit card issuer may credit the ultimate purchaser with reimbursement of such credit to the ultimate purchaser. Under the Senate amendment, if a purchase of taxable fuel is made by means of a credit card issued to an ultimate purchaser that is either a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.

SENATE AMENDMENT

The Senate amendment replaces the oil company credit card rule with a new set of rules applicable to certain sales. Under the Senate amendment, if a purchase of taxable fuel is made by means of a credit card issued to an ultimate purchaser that is either a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.

The new rules apply to all taxable fuels. Under the Senate amendment, if a purchase of taxable fuel is made by means of a credit card issued to an ultimate purchaser that is either a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.

The new rules apply to all taxable fuels.
collect an amount equal to the tax from the exempt entity is liable for present-law penal-
alties for failure to register. A credit card issuer entitled to claim a refund or credit card is required to collect and supply all the appropriate documentation currently required from ultimate vendors. The present-law refund amount rules applicable to ultimate vendors, including the special rules for electronic claims, apply to refunds to credit card issuers under the provision. The Senate amendment also conforms present-law penalty provisions to the new rules.

The Senate amendment does not change the present-law rules applicable to non-cred-
it card purchases.

Effective date.—The provision is effective for sales after December 31, 2005.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

4. Recertification of exempt status (sec. 1564 of the Senate amendment)

PRESENT LAW
If gasoline is sold to any person for an exempt use, an ultimate purchaser that has borne the tax is entitled to claim a refund. However, a registered ultimate vendor is the appropriate person to claim a refund of Federal excise taxes on sales of liquids for use as a fuel (including taxable fuels), compressed natural gas (except if sold for use on school buses or intracity buses), and equipment (bows and arrows, sport fishing equipment and firearms), and tires (except for tires sold for use on qualified buses). The Senate amendment provides that the State or local government or to a nonprofit edu-
cational organization.

In general, in order to claim a refund of Federal excise taxes on gasoline (and on other articles subject to manufacturers excise taxes under Chapter 32 of the Code) sold to a State or local government or to a nonprofit educational organization, the ultimate purchaser must certify that such organization is in good standing. It is intended that the certifications required under this provision will be provided by exempt purchasers to the IRS. IRS regulations require that a registrant notify the Secretary with respect to fuels and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. The regulations require that a registrant notify the IRS of a change in ownership of a registrant, the stock of which is regularly traded on an established securities market. The penalties for failure to register are the same as the present law penalties for failure to register. The provision applies to changes in ownership occurring prior to, on, or after the date of enactment.

Effective date.—The Senate amendment is effective for actions or failures to act after the date of enactment.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

6. Registration of operators of deep-draft ves-
sels (sec. 1566 of the Senate amendment)

PRESENT LAW
Blenders, enters, pipeline operators, po-
sition holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues. A non-assessable penalty for failure to register is $10,000. A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application. Treasury regulations require that a registrant notify the Secretary of any change (such as a change in ownership) in the information a registrant submitted in connection with its application for registration within 10 days of the change. The Secretary has the discretion to revoke the registration of a noncompliant registrant.

HOUSE BILL
No provision.

SENATE AMENDMENT
The Senate amendment requires that upon a change in ownership of a registrant, the registrant must reregister with the Secretary, as provided by the Secretary. A change in ownership means that after a transaction (or series of related trans-
actions), more than 50 percent of the owner-
ship (sec. 1565 of the Senate amend-
ment) in the information a registrant sub-
mits in its application for registration. The provision does not apply to a company, the stock of which is regularly traded on an established securities market. The penalties for failure to reregister are the same as the present law penalties for failure to register. The provision applies to changes in ownership occurring prior to, on, or after the date of enactment.

Effective date.—The Senate amendment is effective for actions or failures to act after the date of enactment.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

5. Reregistration in event of change in own-
ership (sec. 1565 of the Senate amend-
ment)

PRESENT LAW
Blenders, enters, pipeline operators, po-
sition holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues. A non-assessable penalty for failure to register is $10,000. A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application. In general, gasoline, diesel fuel, and ke-
rosene ("taxable fuels") are tax-exempt if the operator of such pipeline or vessel, or vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081. An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues. A non-assessable penalty for failure to register is $10,000. A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application. In general, gasoline, diesel fuel, and ker-
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Effective date.—The provision is effective for sales after December 31, 2005.

CONFERENCE AGREEMENT
The conference agreement does not include the Senate amendment provision.

5. Reregistration in event of change in own-
ership (sec. 1565 of the Senate amend-
ment)
are registered with the Secretary as required by section 4101. Transfer to an unregistered party subjects the transfer to tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, an operator of deep-draft vessels is required to register with the Secretary unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel. If a deep-draft vessel is used as part of a bulk transfer, the operator of such vessel must be registered in order for the bulk transfer exemption to apply, except with respect to taxable fuel, in which case, registration is not required.

Effective date.—The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

7. Reconciliation of on-loaded cargo to entered cargo (sec. 1567 of the Senate amendment)

PRESENT LAW

The Trade Act of 2002 directed the Secretary to regulate regulations pertaining to the electronic transmission to the Bureau of Customs and Border Patrol ("Customs") of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation. The Department of the Treasury issued final regulations on October 31, 2002. The regulations require the advance and accurate presentation of certain manifest information prior to landing at the foreign port and encourage the presentation of this information electronically. Customs must receive from the carrier the vessel's Cargo Declaration (Customs Form 1302) or the electronic equivalent within 24 hours before such cargo is landed aboard the vessel at the foreign port. Certain carriers of bulk cargo, however, are exempt from these filing requirements. Such bulk cargo includes that composed of free flowing articles such as oil, grain, coal, ore and the like, which can be pumped or run through a chute or handled by dumping. Thus, taxed fuel is not required to file the Cargo Declaration within 24 hours before such cargo is landed aboard the vessel at the foreign port. Instead the Cargo Declaration must be filed within 24 hours prior arrival in the United States.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that not later than one year after the date of enactment, all filers of required cargo information for such taxable fuel, as defined, must provide such information to Customs through its approved electronic data interchange system.

Effective date.—The Senate amendment provision is effective upon date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

8. Gasoline blend stocks and kerosene (sec. 1568 of the Senate amendment)

PRESENT LAW

In general

A "taxable fuel" is gasoline, diesel fuel (including any liquid fuel not generally recognized to be used as a fuel in a diesel-powered highway vehicle or train), and kerosene. An excise tax is imposed upon (1) the removal, entry, or transfer to an unregistered terminal or refinery, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not a taxable fuel registrant. The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal, including the personal removal or entry of taxable fuel to the terminal, or the removal or entry of taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery or is registered with the Secretary.

Gasoline blend stocks

Definition

Under the regulations, "gasoline" includes all products commonly or commercially known as gasoline. "Gasoline" also includes, to the extent provided in regulations, all products commonly used as additives in gasoline. By regulation, the Treasury has identified certain products as gasoline blend stocks. The term "gasoline" does not include any product that cannot be blended into gasoline without further processing or fractionation ("off-spec gasoline").

Gasoline blend stock exemptions

If certain conditions are met, the removal, entry, or sale of gasoline blend stocks is not taxable. Generally, the exemption from tax applies if a gasoline blend stock (1) is not used to produce finished gasoline (2) is received at an approved terminal or refinery, or (3) in bulk transfer to an industrial user. Pursuant to Treasury regulation, no tax is imposed on nonbulk removals from a terminal or refinery, or nonbulk entries into the United States of any gasoline blend stocks if (1) the person liable for the tax is a taxable fuel registrant, and (2) such person does not use the gasoline blend stocks not used for producing gasoline blend stock or additive. The Secretary may authorize the transfer of gasoline blend stocks that (1) are obtained by distillation of crude oil. Mineral spirits are a general purpose cleaning agent and degreaser.

Gasoline blend stocks received at an approved terminal or refinery.—Treasury regulations provide that tax is not imposed on the removal or entry of gasoline blend stocks that are received at a terminal or refinery if the person liable for tax is a taxable fuel registrant and has an unexpired certificate from the operator of the terminal or refinery where the gasoline blend stocks are received; and has no reason to believe that any information in the certificate is false. A notification certificate is required to notify another person of the taxable fuel registrant's registration status.

Bulk transfer to an industrial user.—The tax is not imposed if upon removal of the gasoline blend stocks from a pipeline or vessel, the gasoline blend stocks are received by a taxable fuel registrant (1) that is an industrial user. An industrial user means any person that purchases gasoline blend stocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

Refunds or credits for tax imposed on gasoline blend stocks not used for producing gasoline

If any gasoline blend stock or additive is not used by a person to produce gasoline and that person establishes that the ultimate use of the gasoline blend stock or additive is not used to produce gasoline, then the Secretary may authorize a person, upon request, an amount equal to the aggregate amount of tax imposed on such person with respect to such gasoline or blend stock.

If gasoline is used in non-highway business use, the ultimate purchaser of the gasoline is entitled to a credit or refund for the excise taxes imposed on the fuel. "Off-highway business use" means any use by a person in a trade or business of such person otherwise than as a fuel in a highway vehicle that meets certain requirements. Gasoline for the purpose includes gasoline blend stocks.

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer in the manufacture or production of any other article manufactured or produced by him.

Kerosene

Definition of kerosene

By regulation, kerosene is defined as the kerosene described in ASTM Specification D 3699 (No. 1–K and No. 2–K), ASTM Specification D 350, Marine Diesel specification MIL-DTL-56274T (Grade MP–5) and MIL-DTL-83133E (Grade JP–8). Kerosene does not include any liquid that is an excluded liquid.

An "excluded liquid" is (1) any liquid that contains less than four percent normal paraffins, or (2) any liquid that has a distillation range of 125 degrees Fahrenheit or less, sulfur content of 10 ppm or less, and minimum color of +27 Saybolt. These liquids are commonly known as "mineral spirits" and are commonly used as additives in gasoline. Mineral spirits are used for a wide variety of purposes, such as in dry-cleaning fluids, paint thinners, varnishes, photocopy toners, in adhesives, among other general purpose cleaners and degreasers.

Exemptions

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed and any information given concerning the destination, method of transportation, or other material affecting the taxability of the fuel. A person who receives kerosene or kerosene for a nontaxable purpose must notify the IRS and must provide the certificate that the kerosene received was for a nontaxable purpose.
in order for the exemption to apply. Pursuant to the Treasury regulations, tax also does not apply upon the removal or entry of kerosene if the person otherwise liable for tax is the owner of the fuel registrant and such person uses the kerosene for a feedstock purpose.

1. Feedstock purpose means the use of kerosene as an ingredient in the manufacture or production of any substance (other than gasoline, diesel fuel or special fuels subject to tax) that is used for a nonfuel purpose, as a material in the manufacture or production of any other article for nonfuel purposes, or as a component in the production of paint or other paint additives, including certain contaminants, that may displace taxed diesel fuel in a mixture.

Refunds and payments for nontaxable uses of kerosene

If tax-paid kerosene is used by any person in a nontaxable use, the Secretary is required to pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel. For this purpose, a nontaxable use is any use which is exempt from the tax imposed by section 4601(a)(1) other than by reason of prior imposition of tax. Claims relating to kerosene used on a farm for farming purposes are made by registered ultimate vendors. Claims relating to undyed kerosene sold from a blocked pump or sold for blending with heating oil to be used for nonfuel purposes in the manufacture of paint and manufactured cold are also made by registered ultimate vendors. Special rules apply with respect to aviation-grade kerosene.

No provision.

SENATE AMENDMENT

Gasoline blend stocks

The Senate amendment partially repeals exemptions provided in Treat. Reg. sec. 48.4801–4, which, under certain conditions, exempts from tax gasoline blend stocks that are not used to produce or purchase fuel that is manufactured or produced by him.

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer if the subsequent manufacturer or producer uses the fuel for nonfuel purposes in the manufacture or production of any other article manufactured or produced by him.

No provision.

SENATE AMENDMENT

Kerosene and mineral spirits

The Senate amendment requires that with respect to fuel entered or removed after September 30, 2005, the Secretary shall not exclude mineral spirits from the definition of kerosene. Thus, for entries and removals after September 30, 2005, mineral spirits are taxed and exempt from tax in the same manner as kerosene.

Effective date.—The provision is effective for fuel removed or entered after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

9. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States (sec. 1509 of the Senate amendment)

PRESENT LAW

A “taxable fuel” is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene. An excise tax is imposed on (1) the removal of any taxable fuel from a refinery or the storage of any taxable fuel in the United States, or (2) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless such person is an holder of a re

Effective date.—The provision applies to sales or deliveries made after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Impose assessable penalty on dealers of adulterated fuel (sec. 1570 of the Senate amendment)

PRESENT LAW

Diesel fuel, gasoline, and kerosene are taxable fuels. Diesel fuel is any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel powered train, (2) tax on such liquid, if any. Any retailer who knowingly holds out for sale (other than for resale) any such liquid, is subject to a $10,000 penalty for each such transfer, sale or holding out for sale, in addition to the tax on such liquid, if any.

The penalty is dedicated to the Highway Trust Fund.

Effective date.—The provision is effective for any transfer, sale, or holding out for sale or resale occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Oil Spill Liability Trust Fund (sec. 1701 of the Senate amendment; second section of the conference agreement, as added by sec. 4611 of the Code)

PRESENT LAW

Between December 31, 1989, and January 1, 1996, the tax on any domestic refined crude oil imposed on crude oil received at a United States refinery and imported petroleum products received for consumption, use, or warehousing, and any domestically produced crude oil that is exported from the United States if, before exportation, no taxes were imposed on the crude oil. The tax was effective only if the taxable balance in the Fund was less than $1 billion. Taxes received were credited to the Oil Spill Liability Trust Fund. The Oil Spill Liability Trust Fund is used for purposes, including those specified in law, that are connected to responding to and removing spills.

No provision.
The conference agreement follows the Senate amendment with the following modifications.

The tax will be suspended during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $2 billion. The tax terminates after December 31, 2014.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement clarifies that the definition of super single tire does not include tires designed to serve as steering tires. It is understood that steering axles are not equipped with a dual fitment. Therefore, tires classified as steering tires are not ‘designated to replace two tires in a dual fitment. To the extent there is any perceived ambiguity in the present law definition, the conferences wish to clarify that steering tires are not included within the definition of super single tire eligible for the special rate of tax. Under the conference agreement, a ‘super single tire’ is a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment, but such term does not include any tire designed for steering.

With respect to the one-year period beginning on January 1, 2006, the IRS is required to report to the Congress on the amount of tax collected during such period for each class of taxable tire (e.g., biasply, super single, or other) and the number of tires in each such class on which tax is imposed during such period. The report must be submitted no later than July 1, 2007. The IRS is directed to include total tire tax collections for an equivalent one-year period preceding the date of enactment of the American Jobs Creation Act of 2004.

Effective date.—The provision regarding the definition of a super single tire is effective as if included in section 869 of the American Jobs Creation Act of 2004. The study requirement is effective on the date of enactment.

14. Modify recapture of section 197 amortization (sec. 4041 of the conference agreement and sec. 1245 of the Code)

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14. Modify recapture of section 197 amortization (sec. 4041 of the conference agreement and sec. 1245 of the Code)

Taxpayers are entitled to recover the cost of amortizable section 197 intangibles using the straight-line method of amortization over a uniform life of fifteen years. With certain exceptions, amortizable section 197 intangibles generally are purchased intangibles held by a taxpayer in the conduct of a business. Gain on the sale of depreciable property must be recaptured as ordinary income to the extent of ordinary depreciation deductions previously claimed, and the recapture amount is computed separately for each item of property. Section 197 intangibles, because they are treated as property of a character subject to the allowance for depreciation, are subject to these recapture rules.

HONORING OUR ARMED FORCES

STAFF SERGEANT JASON MONTEFERRING

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Army SSG Jason Montefering, who died on July 27, 2005.
24, 2005, while serving in Operation Iraqi Freedom. He was a member of the 3rd Armored Cavalry Division, and was killed when an improvised explosive device, IED, detonated near his military vehicle in Baghdad.

As a graduate of Parkston High School, Staff Sergeant Montefering was serving his second tour of duty in Iraq. He will be remembered as a hard worker who was always ready to get his hands dirty, according to his former employer. While in high school, Jason worked part time at Murtha Repair in Parkston. Owner John Murtha remarked that Jason “would sweep up and then help the mechanics. All of the guys liked working with him. He was a real good kid.”

Staff Sergeant Montefering is the 11th servicemember from South Dakota killed during hostilities in Iraq. He served our country with honor and died a hero defending it. My thoughts and prayers are with his family during this difficult time, as well as all those who have loved ones serving overseas.

I commend Staff Sergeant Montefering’s commitment to his family, his Nation, and his community. Without question, his dedication to helping others serve as his greatest legacy, and our Nation is a far better place because of Staff Sergeant Montefering’s contributions.

I join all South Dakotans in expressing our thoughts and prayers to the grieving family of Staff Sergeant Montefering. I know he will be deeply missed, but his service to our Nation will never be forgotten.

SERGEANT JASON T. PALMERTON

Mr. SANTORUM. Mr. President, on May 26, 2005, I introduced with my colleague Senator DURBIN the Pet Animal Welfare Act of 2005, or PAWS, which was signed into law in July 27, 2005.

PAWS strengthens the Secretary of Agriculture’s authority to deal with substandard animal dealers by making responsible enforcement of the Animal Welfare Act. First, it will bring under coverage of the Animal Welfare Act high volume dealers who are in every respect like those dealers currently regulated, but are evading regulation because they sell animals exclusively at retail. PAWS will continue to exempt real retail pet stores, and will add a new exemption for small dealers and hobby and show breeders. Second, PAWS will help the Secretary of Agriculture identify persons not complying with the law by requiring those who acquire animals for resale to keep records of the source from whom the animals are acquired and make these records available to the Secretary upon request. Third, PAWS will create an incentive for dealers to quickly correct serious problems by giving the Secretary temporary authority to suspend dealers’ licenses for up to 60 days if a violation is placing the health of an animal in imminent danger. PAWS also allows the Secretary to obtain injunctions to shut down dealers who fail to comply with the law.

The marketplace for animals has changed dramatically since the 1970s, when the current animal dealer provisions of the act were written. At that time only retail pet stores and small hobby and show breeders sold pet animals, so regulating wholesale sellers and exempting persons who sold animals at retail and were regulated by the market made some sense. With the advent of the internet, mass national marketing channels, and mass importation of puppies for resale, there are a large number of unregulated dealers who are in every respect identical to the dealers regulated by the act, except that they evade regulation by selling exclusively at retail. By regulating these high volume retailers, we will assure that they meet the same standards for the humane care and treatment of animals that breeders and brokers selling at wholesale have been meeting for 30 years.

PAWS defines the term “retail pet store” so that only real retail pet stores are exempt. Customers can see the animals and the conditions where they are kept. PAWS also adds a specific exemption for small dealers and hobby and show breeders. Only person who sell more than 25 dogs per year would be regulated. In addition, breeders who sell dogs and cats from fewer than 7 litters a year breed or raised on their own premises, or fewer than 25 dogs and cats per year breed or raised on their own premises, which ever is greater, would be exempt. For persons who sell more than 6 litters that average 6 puppies each for a total of 36 puppies, they can sell them without being regulated. If a toy
breeder has 10 litters that average only 2 puppies each for a total of 20 puppies, they can sell them without being regulated. These breeders could also sell 25 or fewer other dogs a year not bred or raised on their own premises such as stud puppies or puppies from franchises, without being regulated. I firmly believe that the sport and hobby of breeding and raising dogs and cats should not be a federally regulated activity. PAWS will, for the first time, put an explicit exemption into the Animal Welfare Act to protect small hobby breeders and show breeders from regulation.

Some persons who sell dogs for hunting purposes have expressed a concern that PAWS will bring them under regulation. The current Animal Welfare Act already covers persons who sell hunting dogs, and has for almost 30 years. They are regulated on the same basis as those who sell dogs for pets. PAWS will continue to regulate sellers of hunting dogs on the same basis as those who sell dogs as pets. Only high volume sellers who exceed the exemptions set forth in PAWS will be subject to regulation.

Some rescue and shelter organizations have expressed concern that because PAWS only charges an adoption fee to those who adopt the dogs they place, these organizations will fall within the definition of “dealers” in PAWS and be regulated. True rescue and shelter organizations who do not sell dogs or cats for profit, will not be brought under regulation by PAWS, whether or not they are formally incorporated as not for profit organizations.

Some high volume dealers in cats and dogs who will be brought under coverage of the Animal Welfare Act by PAWS, but who are still small enough that they breed and raise dogs or cats in essentially a residential environment, have expressed concern that they will be forced to build kennels and catteries and lose the hard work and commitment that it requires. I also know that most commercial breeders are dedicated to their profession and to their animals. I believe that PAWS will protect small hobby and show breeders and the vast majority of compliant commercial breeders as well as the public from those breeders and brokers who evade or fail to comply with the law. And, most importantly, it will protect the animals themselves. Breeders and rescuers in all those in the animal welfare community to join us in this effort.

Senator DURBIN and I in the Senate, along with our colleagues Representatives GERRLACH AND FARR who have introduced PAWS in the House of Representatives, consulted with a broad array of animal interest and animal welfare groups in creating PAWS. We believe that enactment of PAWS will be a major milestone in the history of animal protection in the United States. We are delighted that it has brought together animal interest groups and animal welfare groups that in the past have operated on opposite sides of animal legislation, including our own past bills. Having said that, no legislation is perfect when introduced. As chairman of the Senate Agriculture Committee’s Subcommittee on Research, Nutrition and General Legislation, which has jurisdiction over PAWS, I intend to convene a hearing and mark-up of PAWS shortly after the August recess to make technical corrections, and to clarify some of the tenets as set forth in this statement. PAWS is not intended to restrict breeding or impose a hardship on rescue and shelter organizations. PAWS specifically recognizes the importance of protecting small breeders and the noncommercial purebred dog and cat fanciers from Federal regulation. My family and I purchased our beloved German shepherd dog Schatzie from a small breeder. We and Schatzie raised a litter of puppies in our own home last year, and fully understand the hard work and commitment that it requires.

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DEPARTMENT OF VETERANS AFFAIRS 75TH ANNIVERSARY

Mr. AKAKA. Mr. President, I rise today with great joy to congratulate the Department of Veterans Affairs, VA, on its 75th anniversary. Through all of its tragic years, this Nation’s veterans, VA has certainly lived up to the words of the great President Abraham Lincoln, “To care for him who shall have borne the battle and his widow, and his orphan.” During its first 75 years, VA has done much to benefit not only veterans and their families but also the nation as a whole.

On June 22, 1944, President Franklin Delano Roosevelt signed the Montgomery GI bill into public law. Since then, the GI bill has been updated and expanded numerous times. This far-reaching legislation has helped improve the lives of over 20 million veterans through educational programs, home loan guarantees, unemployment compensation, and other benefits. It is estimated that over the lifetime of the average veteran, the U.S. Treasury receives two to eight times the income tax from the average veteran than was spent on the veteran’s GI bill benefits.

The GI bill has undoubtedly one of the most important pieces of legislation in this Nation’s great history. VA has also established a legacy of first rate health care for our veterans. A recent study by the RAND Corporation found that VA outpaces private health care systems in delivering care to patients. RAND observed that VA patients were more likely to receive recommended health services than patients using a private provider.

The study also concluded that VA patients consistently receive better care across the board, including screening, diagnosis, treatment and follow-up.

The far-reaching accomplishments that I briefly highlighted are just a few cornerstones of the Department’s legacy. With the current military operations in Iraq and Afghanistan, we appreciate even more the quality work that VA does on behalf of the current operations should also be a reminder to VA and Congress of the burdens our veterans face because of their sacrifices to protect our freedoms and liberties.

I am extremely proud of the work VA has done, and I hope that through greater cooperation between Congress and the administration, we can expand upon VA’s legacy and address the current needs of our veterans. I must also highlight the dedication of the staff that has worked at VA over the years. An agency as massive as VA would cease to function without quality leadership and staff. Many of VA’s staff have deep and passionate commitment to providing quality health care and benefits for our veterans.

Our Nation’s veterans and service members deserve nothing less than top quality health care and benefits. I am sure that Congress and VA can work together to fulfill this obligation. Once again, I congratulate VA on 75 years of service to our veterans.
HONORING THE LIFE OF ELVIN OREN CRAIG

Mr. CRAPO. Mr. President, I would like to honor the life of a special Idahoan who is also the father of my colleague from Idaho, Senator LARRY CRAIG. Elvin Oren Craig, who passed away last week, left many legacies and will be missed by many people. In Idaho, he was a lifelong advocate for Idaho agriculture, and a leader in Washington County, Midvale and Weiser. He also was very active in his local VFW Post in Midvale, ID. At 87 years old, he had remained active despite his prostate cancer. In fact, he worked until only about 6 months ago when he decided it might be time to let up a little bit. Elvin Craig's legacy also lives on in my colleague and in Senator Craig's consistent and honorable service to Idahoans over his years in public office. I know that Elvin was proud of his son's service to Idaho and the country—first in the Idaho State Senate, then in the U.S. House of Representatives, and now in the U.S. Senate.

Elvin's family and friends know of his community service and his persistent commitment over many years to Idaho's farmers and ranchers and his own family. He worked hard while maintaining his sense of humor. His full life was an outstanding example of what it means to be an Idahoan. I am pleased to pay tribute to a remarkable man, Elvin Oren Craig, and to share my condolences to my friend, LARRY CRAIG, and his family upon the passing of a great man.

SECOND AMENDMENT PROTECTION ACT OF 2005

Mr. VTTER. Mr. President, I rise today to introduce a bill that wouldwithdraw United States contributions to the United Nations if the U.N. interferes with the second amendment rights guaranteed by our Constitution.

The U.N. has no business interfering with the second amendment rights guaranteed by our Constitution. That is why I am introducing legislation to safeguard our citizens against any potential infringement of their second amendment rights.

In July, 2001, the U.N. convened a conference, known as the “Conference on the Illicit Trade of Small Arms and Light Weapons in All Its Aspects in July 2001.” One outcome of the conference was a resolution entitled, “The United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.” This resolution calls for actions that could abridge the second amendment rights of individuals in the United States, including: (1) national registries and tracking lists of legal firearms; (2) the establishment of an international tracking certificate, which could be used to ensure U.N. monitoring of the export, import, transit, stocking, and storage of legal small arms and light weapons; and (3) worldwide record keeping for an indefinite amount of time on the manufacture, holding, and transfer of small arms and light weapons.

The U.N. also wishes to establish a system for tracking small arms and light weapons. How would they do this? It would be done by forcing legal, licensed gun manufacturer's to create identifiable marks for each nation. The gun manufacturer's lists would then be provided to United Nations authorities on behalf of the U.N.

Who would maintain these intrusive lists? Would it be the World Customs Organization, which the U.N. has suggested as a possible vehicle? That organization counts Iran, Syria, China, and Cuba among its membership. Would all World Customs Organization members have access to such lists? In the event that those with access to such information abuse or misuse it, what would be the remedy? How would we prevent unauthorized persons, perhaps criminals and terrorists, from acquiring such information from rogue nations who have declared the United States an enemy?

Some at the U.N. have suggested that tracing certain financial transactions of a legal and law abiding gun industry could be a useful tool in tracking firearms. What would such tracing entail? Does the U.N. expect to receive private U.S. banking records of a legal and law abiding industry?

Furthermore, the U.N. has encouraged member States to integrate measures to control ammunition with regard to small arms, and some members have expressed a desire to tax international arms sales. The U.N. has no legal right or authority to collect a tax from American citizens to further any agenda, especially gun control measures.

The U.S. Constitution has guaranteed our citizens the right to keep and bear arms. I intend to help protect that right with this legislation. I urge my colleagues to support the Second Amendment Protection Act of 2005.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to introduce a bill that would authorize hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to understand that hate crimes legislation, somehow agreed with Judge Pryor's opposition to section 5 of the Voting Rights Act because of a statement Congressman Lewis had made about a specific redistricting plan.

Congressman Lewis has made clear many times, most recently in a July 14 letter to me, his disagreement with the views of Judge Pryor and his strong support for the Voting Rights Act—and particularly section 5. Congressman Lewis wrote:

Section 5 of the Voting Rights Act must be renewed. There is a continuing, proven need for the pre-clearance provisions of the Voting Rights Act, which ensure that local and state jurisdiction do not develop laws that intentionally or unintentionally discriminate against groups who may have little or no voice in the establishment of those laws. His statements of support for one particular redistricting plan in no way diminish his commitment to the Voting Rights Act.

Congressman Lewis believes, as do I, that the Voting Rights Act is our most important protection guaranteeing that no individuals or groups are without a voice in this democracy. As he so eloquently noted:

The history of the right to vote in America is a history of conflict, of struggling for the right to vote. Many people died trying to protect that right. I was beaten and jailed because I stood up for it. For millions like me, the struggle for the right to vote is not mere history; it is experience. The experience of the last two presidential elections tells us that the struggle is far from over, and that the special provisions of the Voting Rights Act are still necessary.

I ask unanimous consent that Congressman Lewis’s letter be printed in the Record at the end of my statement.

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

(See exhibit 1.)
Mr. LEAHY. In contrast, Judge Pryor’s statements about section 5 reflect a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that section 5 is an “affront to states’ system of elections.” Whether under Earl Warren, Warren Burger, or William Rehnquist, the U.S. Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy—a “burden” that has “outlived its usefulness.”

Indeed, Congressman LEWIS sponsored a resolution, which is being considered on the floor of the House today, commemorating the passage of the Voting Rights Act 40 years ago this summer. The resolution recalls the struggle for the act’s landmark protections—from the brutal suppression of marchers on the Edmund Pettus Bridge in Selma, AL, on Bloody Sunday on March 7, 1965, to the passage of the bill by a bipartisan Congress months later—and reaffirms its importance. Forty years after President Johnson signed the Voting Rights Act into law, Congressman LEWIS and I remain committed to this essential piece of legislation.

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 14, 2005.

Senator PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: During the Senate debate on the nomination of Judge William Pryor to the 11th Circuit Court of Appeals, Senator Saxby Chambliss quoted a few words of my testimony in the case of the State of Georgia v. John Ashcroft, and implied that I agree with Judge Pryor’s assessment of Section 5 of the Voting Rights Act. I take issue with the Senator’s remarks and want to make clear that his reference to my remarks were taken out of context.

I regret that my colleague, the senior Senator from Georgia, would use my support of a Georgia redistricting plan to justify the confirmation of Justice William Pryor to the 11th Circuit Court of Appeals. I strongly disagree with the views of Judge Pryor and do not think he is fit to serve.

I further regret that Senator Chambliss would use my very general statements to suggest that I am not in favor of renewing Section 5 of the Voting Rights Act. Section 5 of the Voting Rights Act must be renewed. There is no proven need for the pre-clearance provisions of the Voting Rights Act, which ensure that local and state jurisdictions do not develop laws that intentionally and non-cynically discriminate against groups who may have little or no voice in the establishment of those laws.

We have come a long way in the last two decades, and certainly have come a long way since the 1960’s, however, voting obstacles and disparities still exist for far too many minorities. In Florida in 2000, voters were confused by the ballots, polling equipment broke down, and polls did not open as scheduled. In Ohio in 2004, many people stood in what appeared to be unmovable lines for eight and nine hours trying to exercise their right to vote. There were an inadequate number of voting machines and in some instances, bogus officials were sent to polling stations and were found disseminating misinformation and questioning the choices of voters.

As a result of these problems, many Americans were denied the right to vote. These truths continue to demonstrate the importance of the Voting Rights Act to prevent discrimination in voting. Many people were not denied the right to vote. The vote is the most powerful, nonviolent tool that our citizens have in a democratic society, and nothing but nothing should discourage, hamper or interfere with the right of every citizen to cast a vote for the person of their choice.

The history of the right to vote in America is a history of struggle for the right to vote. Many people died trying to protect that right. I was beaten, and jailed because I stood up for it. For millions like me, the struggle for the right to vote is not mere history; it is experience. The experience of the last two presidential elections tells us that the struggle is not over and that the special provisions of the Voting Rights Act are still necessary. We should not take a step backward, when there is still much to be done to ensure every vote and every voter counts.

As we work toward reauthorizing the Voting Rights Act, we must move in a deliberative manner, conduct open and adequate hearings, and ensure that we create the appropriate legislative history and factual findings. I look forward to working with you to protect the voting rights of all Americans, by reauthorizing the special provisions of the Voting Rights Act.

Sincerely,

JOHN LEWIS,
Ranking Member, Committee on the Judiciary,
Washington, DC.

JOHN LEWIS,
Member of Congress.

AIR FORCE ACADEMY’S 50TH ANNIVERSARY AND NASA’S RETURN TO FLIGHT.

Mr. SALAZAR. Mr. President, I today observe two momentous occasions: the Space Shuttle’s Return to Flight and the 50th anniversary of the U.S. Air Force Academy.

Yesterday, at 10:39 a.m. eastern daylight time, the Columbia space shuttle safely lifted off from its launch pad at Cape Canaveral, FL. It blasted into orbit carrying seven of our Nation’s finest, on a mission to resupply the International Space Station, test the Shuttle, and resume America’s manned exploration of the cosmos.

I want to thank NASA’s Administrator, Michael Griffin, and the thousands of men and women who have worked tirelessly in the wake of the Columbia tragedy to upgrade the safety of our space mission. Their commitment and courage have helped turn our Nation’s dreams to the heavens and stars once again.

Also this month, we celebrate the 50th anniversary of the entrance of the first class of cadets to the Air Force Academy.

It is fitting that NASA’s return to flight occurs at a moment when we are reflecting on the Air Force Academy’s first half century of service, because the Academy and NASA are two institutions that represent the best men and women in our country. Due to their shared focus on flight, the two institutions are forever linked. In fact, two of the astronauts guiding the Discovery in orbit, head west right now come from the Air Force Academy.

LTC Eileen Collins, a former professor in the Air Force Academy’s Mathematics Department, is currently 222 miles above us as the commander of the Shuttle’s return to flight. Raised in public housing in upstate New York, Eileen Collins broke through every barrier laid before her to become the first woman to pilot a Shuttle. When she came to the Air Force Academy in 1986 she helped usher in a new era at the Academy, an era where women were allowed to compete and succeed on an equal playing field.

Witnessed by the care very proud that Lieutenant Colonel Collins’ journey to space brought her to the Air Force Academy.

Sitting next to Lieutenant Colonel Collins today in the Space Shuttle is Discovery’s pilot, James Kelly, Air Force Academy class of 1986.

James Kelly grew up in the small town of Burlington, IA, where the sounds of passing airplanes inspired him of spaceflight. The Air Force Academy gave James Kelly the tools, training, and opportunity to take to the skies. It gave him, and the thousands of other young men and women who have passed through its gates, a mission to serve our country and the greater good.

Astronauts Collins and Kelly represent the best of the Academy they received, the best of its cadets and the best of its faculty. They remind us that the Academy’s proud mission continues to be of immeasurable value to our nation.

Yesterday’s successful Space Shuttle launch reminds us that despite the challenges that still face the Academy, the institution has, for half a century, produced some of our finest leaders. The 386 civilians who took the oath of office on July 12, 1955, to become Air Force Academy cadets built a legacy of leadership that is at the foundation of the institution’s mission. Three generations of young people have passed through the Academy and have learned to lead our nation in times of war and peace.

They live by the Academy’s core values, “integrity first, service beyond self, and excellence in all we do.” They inspire us all.

They inspire us because they are American pioneers like Eileen Collins, first in her field.

They inspire us because they are represented by the cadet who told me he chose the Academy because, quote, “the country needs me—our freedoms need my protection.”

And the Academy’s cadets inspire us because they are leading our Return to Flight, lifting our country from tragedy to the triumphant possibilities of space exploration.

I congratulate the Air Force Academy, its cadets, staff, and graduates for 50 years of excellence.
Our prayers are with you.

**THE HOWRIGAN FAMILY OF FAIRFIELD, VERMONT**

**Mr. LEAHY.** Mr. President, I rise today to acknowledge the Howrigan family of Fairfield, VT, who recently celebrated a family tradition.

The Howrigan family is a bedrock of Franklin County and Vermont agriculture, and has done much to carry on our State’s agricultural stewardship tradition.

I have known many members of the Howrigan family for years and have come to appreciate the sound counsel on dairy issues and other aspects of farm policy.

**Mr. President,** I thank the Howrigan family for their dedication to Vermont agriculture and their communities, for they represent the finest tradition of our rural State.

I ask unanimous consent that a July 24, 2005, Burlington Free Press article featuring and honoring this wonderful Vermont family be printed in the Record.

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

(From the Burlington Free Press, July 24, 2005)

**HOWRIGANS: A DYNASTY OF DAIRYING**

(By Candace Page)

**FAIRFIELD.**—When Harold Howrigan’s four grandsons crammed into the back seat of their aunt’s pickup truck for a road trip last week, Tim Howrigan, 12, couldn’t wait to tell the others what he’d heard about a breakthrough in mastitis research.

“The cows that get the new treatment, they’re never going to get the udder infection in dairy cows, he told them. He explained to his 10- and 11-year-old cousins how it’s better to keep cows healthy than to have to cure them after they’ve become sick.

In the Howrigan clan, you are never too young to learn the family business.

“I’m in the blood,” says W. Robert Howrigan, 86.

Howrigans have been milking cows in Fairfield since their arrival from Ireland’s County Tipperary in 1849. One Howrigan, William, and his wife, Margaret, reared 10 children on a 35-cow hill farm in the Depression days. Today, 32 of their children, grandchildren and great-grandchildren work farms in Franklin County—a dairy dynasty unique in Vermont.

The descendants of William and Margaret milk more than 3,000 cows and produce maple syrup from nearly 40,000 taps; their fields, pastures and woods cover 10,000 acres in Fairfield and neighboring towns.

More farms—38 of them—ship milk from Fairfield than from any other Vermont town, in part because of the community’s high Howrigan count. The family has provided two of Vermont’s most influential voices in state and national dairy policy: William’s sons, the late state Sen. Francis Howrigan and Harold, 81, a longtime leader of the Dairy Cooperative Creamery.

Howrigans have graduated from Harvard; become nurses, doctors, teachers and lawyers; left Fairfield or Vermont for good. But an increasing number of the Howrigan family, including some of the women, have chosen a farm life like their parents.

They constitute a one-clan counter trend to Vermont’s annual loss of family farms in the face of low milk prices, the flight of young people and the attraction of less back-breaking work.

“Saddam Hussein couldn’t drive these people off their farms,” Vermont Agriculture Secretary Steve Kerr says, “They love farming. You can’t fight that.”

And it’s not just that they love what they do; they are making money at it.

The sprawling but tight-knit family network has proven fertile ground for growing both success and love of the farming life.

Dozens of pairs of Howrigan hands will materialize to help build an uncle’s barn, move a cousin’s herd or tend the finer points of farming to a sister’s child.

Kerr could not think of another Vermont farm clan as big and long-lasting as the Howrigans. “I don’t why they’ve got isn’t sustainable forever and ever,” he said.

Twelve-year-old Tim Howrigan, for one, knows just what he’ll do when he grows up: ‘I’ll be a cow farmer,’” he said.

**A FARM EDUCATION**

Margaret McCarthy Howrigan bore a child every 18 to 24 months between 1915 and 1933. She was married twice, had clothed and washed in a house not reached by electric lines until 1939.

A teacher before her marriage to William, she put as high a value on education as her husband put on improving his farmland and tiny herd. Margaret’s children would go to high school. Her girls, all five of them, would go to college if they wanted and every one of them did.

William’s boys were a different case. Yes, they were needed as workers on the farm, but in the Howrigan family much more than the endless repetition of milking cows and cutting hay. A farm was for problem-solving today and improving for tomorrow.

As children, the Howrigans helped their father transplant lines of maples along Howrigan Road, build drainage on the roads in their sugarbush to prevent erosion, and turn the piles of stone hauled from their fields into the foundation of an all-weather road.

Decades later, Francis, the oldest boy, would put this lesson into words his children still repeat: “Live as though you’re going to die tomorrow as though you’re going to live forever.”

He and his brothers found challenges for the brain and plenty of stimulation for their entrepreneurial instincts right on one farm. They grew up in a narrow, hill-edged valley but didn’t see the farm as confining or constraining.

At 17 or 18, Harold built what he thinks was the first mechanical gutter cleaner in Vermont, on assemblage of chains and pulleys and a 5-horsepower motor to haul manure out of the barn.

“I just got tired of shoveling,” he said last weekend.

In his teens, Francis acquired a drag saw to cut firewood for neighbors. He bought a truck and began hauling milk and hay for other farmers. In his 20s, he rented a nearby place “on halves” from a neighboring farmer, paying half the expenses and taxes, keeping half the income. By 32, he owned his first farm. Ultimately, he would accumulate 10 farms and more than 4,000 acres.

When Robert, Francis’ younger brother, couldn’t persuade his father to buy the farm next-door, he borrowed the money to buy it himself. He, too, would acquire additional farms—4,700 acres altogether.

Even Tom, who did go to college in his 30s and became a surgeon, continues to live in the house where he was born. At 84, he still spends many of his days cutting brush and improving the farm woodlot. “I consider myself a longtime surgeon but a lifetime farmer,” he said.

Some Howrigan sons still prefer to get their education on the farm. The family tells the story of Michael Howrigan, Francis’ younger cousin, who enrolled in college after high school.

“He called home every night. He wasn’t homesick. He just couldn’t stand not knowing what was happening on the farm,” said his father, also named Michael. The younger Michael soon quit school and went into partnership with his father in the family business.

There’s no farming without family among the Howrigans. William’s children started at 5 or 6, hauling wood for the stove, feeding calves, scraping the barn, picking bags of potato plants that yielded 300 bushels a year in the cold valley.

A big family also means constant companions—siblings to share chores, play baseball in the pasture or climb the maples on the hill. Most Howrigans grow up sociable, and the pleasures of sociability help make farming attractive.

“It’s pretty magical. I have cousins and siblings that are my best friends,” said Kate Howrigan Baldwin, 21, one of 12 children of Francis Howrigan. “There’s an allegiance that is unspoken. You know you are going to help one another and be there for one another. It’s not a mandate—it’s what you want to do.”

Family is the first thing Brendan Schreindorfer mentions when he is explaining how a village boy ended up buying his own milking herd at the age of 24. His mother is a Howrigan—William was his great-grandfather—but his parents did not farm.

Brendan, a 24-year-old living along behind his grandfather, Robert, and his uncles and cousins on their big farm north of Fairfield Center.

He was determined to become a dairy farmer since he was a child, he said.

“I think it was the fact that everyone was always working together to get something done. People pull together and it pulls you along. It’s a family thing, and it never leaves your system once it’s there,” he said.

Five years ago, his parents co-signed a note to help him buy the 625-acre farm in Sheldon. (He’d built up equity, but the Howrigan pedigree might have held him get the loan anyway.)

His new place was run down—his cousins helped him with repairs through the winter. He needed to move his herd this spring—a small squadron of Howrigans showed up with trucks and trailers to help.

Howrigans help one another bring in hay, harvest corn, fix equipment and build barns. Patrick Howrigan, 24, of Sheldon, raised the rafters of his 200-stall barn in a day, thanks to volunteers led by his brothers and cousins.

“A lot of neighbors helped, but family was the driving force,” he said.

**LOVE OF THE LAND**

Harold Howrigan’s air-conditioned pickup truck bounced down a dirt track through one of Vermont’s last farms, between rows of corn taller than the cab. He nodded toward a nearby woods. The landowner, he said, had subdivided the land and put in five or six homes.

There was the slightest hint of disappointment or disapproval in his tone. Since he bought his first farm in 1968, he has acquired 2,100 acres, intertwining green landscape of maple woods and productive fields with million-dollar views.

July 27, 2005
“I’ve never sold an inch of land. I just don’t want to do that,” he said. If the Howrigan clan has a leader and role model, Harold, at 81, fills the bill. His square face is topped by a puff of white hair, his ruddy complexion crinkled by the weather. It’s a face that would look equally at home in a Tipperary pub, a testament to his purely Irish ancestry.

Like many of the Howrigan men, he seems gruff and a bit standoffish at first meeting. Howrigans have the “quiet gene,” says his niece Kate Baldwin.

Over the kitchen table in the farmhouse he shares with his wife, Anne, or on a tour of the land they farm with their three sons, he expands on the farm’s importance in times of childhood on the farm. He shows a visitor field after hillside field, not saying much, apparently for the pure pleasure of looking at the land and the results of a lifetime’s work.

Land was “a treasure,” he said, to the Irish farmers who immigrated to Fairfield from a country where land ownership was all but impossible for them. That fierce allegiance to one’s own acres also runs in the Howrigan line.

Even in the hardscrabble days of the Depression, his father treated the land well—planting trees, combing stones from the rocky fields, preventing erosion. “He never cut a live maple,” he said.

Harold and his family use the latest technology in their sugarhouse, but they collect sap the way Harold’s father did, with hanging buckets and sled-top tanks pulled by five teams of horses.

Horses don’t require new roads to be cut and are easier on the land. “There’s no substitute for horses gathering sap. They’re nice to work with, they come to you and stop. A tractor won’t do that,” he said.

With the other farmers of Fairfield, the Howrigans have created a town perhaps more pastoral than any other in Vermont. From many of Howrigan’s hillsides, the view of corn and hayfields and grazing heifers seems to have changed not at all in a hundred years.

But does he value his land for its worth in bushels of corn alone? Or does he find it beautiful, as well?

“I think it is beautiful, and I work to keep it that way,” he said, looking back toward the home farm. “I treasure it for its value as working land and for its beauty, too.”

ADDITIONAL STATEMENTS

IN RECOGNITION OF DR. H. WESLEY TOWERS, JR.

Mr. CARPER. Mr. President, today I wish to recognize Dr. H. Wesley Towers Jr. upon his retirement as State Veterinarian after 37 years of dedicated service. The son of a Kent County farmer, Doc graduated high school in 1960 from P.S. Dupont, and went on to study animal and poultry science at the University of Delaware, graduating with honors and distinction in 1964. He spent the next four years at the University of Pennsylvania veterinary school, graduating in 1968, and went on to become Delaware’s vet almost by chance.

After veterinary school, Doc took a job in Kent County as an apprentice to the State veterinarian. At the same time, Harrington and Georgetown race-tracks offered him a temporary night job overseeing racehorses. Several weeks later, the State Fair Board stroked, leaving him unable to resume race work. The temporary job became a full-time, second job for Doc. The following year in 1969, the State vet retired and Doc was appointed in his place.

Doc has the Nation’s fourth largest poultry industry to protect, a rabies epidemic to police, and race courses to regulate. Containing and excluding contagious and infectious animal and poultry diseases is his priority, with outbreaks of avian flu, a virulent respiratory ailment that devastates poultry. Doc and his team work hard at their jobs to ensure that any outbreaks of avian flu are contained.

During his time as State vet, Doc has received the award of Agriculture’s Employee of the Year award, the University of Delaware’s Worrolow Award for service to agriculture and Delaware’s coveted Award for Excellence and Commitment to State Service. At the University of Delaware, Doc is a part of the Agricultural Alumni Association, the Alumni Association board, the Career Planning and Placement advisory committee, the phone-a-thons, and the “Alumni in the Classroom” program.

Doc spends much of his free time championing causes in which he believes. He testifies in SPCA cases, including revelations over local “puppy mills.” He is involved with the racing commissions, the Board of Directors, and the Tri-State Bird Rescue group. In addition, Doc enjoys gardening, traveling, hunting, cooking and taking trips to the beach.

Doc is married to his college sweetheart, Sarah. The two met in a chemistry laboratory at the University of Delaware, and were married on June 25, 1966. They have two children, Laura and David, and four grandchildren, Mark, Annie, Matthew and Davey. Sarah devotes most of her time to almost forty years as a patient, kind and loving man who loves to be around people. He is fortunate to wake up every morning and go to a job that he loves.

After retirement, Doc plans to spend his time pursuing his hobbies, volunteering, and most importantly, continuing to raise his beloved Delaware blue hens. I rise today to honor Doc and to thank him for his friendship that we share. Through his tireless efforts, he has made a profound difference in the lives of livestock and enhanced the quality of life for an entire State. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I congratulate him on a truly remarkable and distinguished career. I wish him and his family only the very best in all that lies ahead for each of them.

THE VALUE OF RURAL HEALTH CARE

Mr. DORGAN. Mr. President, I will take a few minutes to pay tribute to a group of people whose tireless, dedicated service to the nation need to often go unremarked—North Dakota’s and our Nation’s health care providers. As I travel around North Dakota, I frequently stop in to visit hospitals, clinics, and nursing homes. I am continually impressed by the quality, compassionate care that I see being provided by doctors, nurses, allied health professionals, and other medical staff, as well as by the administrative and support staff.

Rural America depends on its small town hospitals, its tuberculosis hospitals, on physicians and nurses, nursing homes, those who provide emergency ambulance services, and many others to provide a seamless system of care.

There are a range of challenges facing rural health systems, from difficulty recruiting and retaining staff and inadequate reimbursement to rising costs and reams of paperwork to fill out. Despite these challenges, our health care providers do an admirable job remaining focused on providing quality care.

Our hospitals, nursing homes, and clinics are also important engines driving North Dakota’s economy. Health services account for 8 percent of North Dakota’s gross State product. And health care providers are often among the largest employers in a rural community, representing about 15 percent of direct and secondary employment.

In short, a strong health care system is an important part of our rural infrastructure, and the people who make up this system have deep roots and thanks. Over the years, we have determined that rural electric service, rural telephone service, an interstate highway system through rural areas, and rural mail delivery, to name a few services, make us a better, more unified nation. The same is true of rural health care, and I will continue fighting for policies that reflect rural health care as a strong national priority.

COMMENDING HOME DEPOT

Mr. ISAJKSON. Mr. President, today I pay tribute to the Home Depot for the support, employment, and assistance it provides to the men and women of our active duty Armed Forces, Reserves and National Guard and their families.

Beginning with its founding by Bernard Marcus and Arthur Blank and continuing under CEO and President Bob Nardelli, the Home Depot has always been a great corporate citizen. Nothing
exemplifies the company’s commitment more than its support of our veterans and their families.

In the years 2003 and 2004 combined the Home Depot hired 25,000 veterans, and was recognized by G.I. Jobs magazine as America’s No. 1 military-friendly employer. In 2004 the company launched Operation Career Front with the departments of Defense, Labor, and Veterans Affairs to provide career opportunities to military personnel and their spouses.

Since the tragic terrorist attacks of September 11, 2001, our Nation has depended on our military Reserves and National Guard in waging the war on terror, and no American company has been a bigger supporter of the Reserves and Guard than the Home Depot. In March of 2003 the company enhanced its military leave policy to provide active duty associates with full pay and an extension of their health benefits.

In April 2003 the Home Depot launched a nationwide effort donating more than 1 million hours of volunteer service and $1 million to help repair the homes of deployed military families. In September of 2004 the National Committee for Employer Support of the Guard and Reserves presented the Home Depot with its Freedom Award.

In June of this year the company established a program for returning veterans to provide associates with the critical resources needed for a smooth transition back to work.

For all these reasons and so many more, Home Depot was recognized this year by the Marine Corps Law Enforcement Foundation and the Partnership for Public Service with awards for leadership and distinguished service to America’s veterans.

I am very proud to recognize CEO Bob Nardelli and the men and women of Home Depot for their leadership in employing and assisting America’s active duty and veteran military personnel and their families.

TRIBUTE TO JOHN WALTON

- Mrs. LINCOLN. Mr. President, today I wish to pay tribute to Mr. John Walton, 58, an Arkansas native and Wal-Mart heir who on June 28, was killed when his aircraft crashed on landing outside of Jackson, WY.

John lived a varied and interesting life. John was born on October 8, 1946, outside of Jackson, WY; to his parents, Jim, and Alice.

John’s life exhibited his commitment to his country in so many ways. He defended his country on the battlefields of Vietnam and he invested in his country’s future through education for thousands of children. I am sure the entire Senate will join with me to honor the life of John Walton.

HONORING THE RETIREMENT OF GARY L. NEALE

- Mr. LUGAR. Mr. President, today I call to the attention of my colleagues the retirement of a pillar of the energy industry for many years in my state of Indiana, Gary L. Neale. On June 30, 2005, Mr. Neale stepped down from his post of chief executive officer of NiSource Inc.

Prior to bringing his talents and dedicated work ethic to Northwest Indiana, Mr. Neale earned both his B.A. and M.B.A. from the University of Washington. In addition to this impressive education, he also took time to broaden his experiences by serving his country as an officer in the U.S. Navy. In addition to his contributions not only as an astute student but also a valued teacher contributing articles to Business Week, Harvard Business Review, and Public Utilities Fortnightly.

Supplementing his impressive academic and military careers, Mr. Neale became a consistent force in the energy industry in Indiana and nationally. Before joining NiSource in 1989, Mr. Neale was chairman, president and executive officer of Planmetrics Inc., an energy consulting firm. Mr. Neale graciously accepted the appointment of the Governor of Indiana to serve on our State’s Economic Development Council, Energy Policy Forum and Clean Air Advisory Committee. He headed the Northwest Indiana Americans with Disabilities Act Advisory Board and the Lake Area United Way Campaign. Mr. Neale also sits on the boards of directors of Associated Electric Cooperatives Insurance Services Limited, AEGIS, Modine Manufacturing Company, Chicago Bridge and Iron Company, and Valparaiso University.

As he begins this new chapter in his life, I simply wanted to highlight a few of Mr. Neale’s extensive accomplishments and pleased to name him to the opportunity to join his wife Sandy, two children, five grandchildren, and many friends and colleagues in congratulating him on a fine career.

TRIBUTE TO JACKSON T. STEPHENS

- Mr. PRYOR. Mr. President, today I wish to pay tribute to a legendary Arkan sian. Jack Stephens was a businessman, financier, and philanthropist whose work has touched the lives of countless individuals in and outside of Arkansas, and his contributions to the state will live on for generations to come.

Described by Scott Ford, CEO of Alltel Corporation, as “the most brilliant businessperson that the state has ever produced,” Jack Stephens has many accomplishments and accolades to his credit. Jack grew up on a farm in Grant County, AR. He attended the U.S. Naval Academy, and soon thereafter he joined his brother Witt’s investment firm, which became the financial vehicle for his success over the years. Jack’s good business instincts in and outside of Arkansas, and his contributions to the state will live on for generations to come.

Jack Stephens was also a philanthropist who truly believed in the values of charity and community service. His love for the people of Arkansas led him to invest not only in for-profit ventures to contribute to our State’s most successful businesses, including Wal-Mart, Tyson Foods, and Alltel Corporation. The Stephens name is virtually inseparable from economic development in Arkansas over the last half century, and rightfully so.

Jack Stephens was also a philanthropist whose work has touched the lives of countless individuals in and outside of Arkansas, and his contributions to the state will live on for generations to come.

Perhaps one of the best known causes that Jack promoted was related to one of his lifetime passions: golf. In 1981 Jack promoted the Augusta National Golf Club, home of the Masters tournament, where he served until 1997. It is here that Jack
developed the idea of extending his favorite pastime to underprivileged youths. Thanks to his generous support, the First Tee program, with locations in Little Rock and Fort Smith, promotes, character development and life-enhancing values through the game of golf. Jack Stephens’ giving spirit will live on in the many institutions he has supported over the years, and his legacy will continue to influence the State of Arkansas for a long time to come. I join all Arkansans in giving thanks for the life of a pioneer businessman and an eternal friend of his fellowmen.

THE 90TH ANNIVERSARY OF THE LINCOLN HIGHWAY

Mr. SARBANES. Mr. President, I am pleased to commemorate the 90th anniversary of the Lincoln Highway, which was officially routed through Washington, DC, on July 27, 1915, making it a true national highway. The construction of the highway was not only an important milestone in our Nation’s history, but it has also served as a significant link in the development of Maryland highway system.

The original proposed route for the highway ran from New York to California, but did not pass through Maryland or the Nation’s Capital. COL. Robert Harper, who at the time was President of the DC Chamber of Commerce and chairman of the Lincoln Highway Feeder Committee, lead a campaign to have the route altered to pass by the Lincoln Memorial. He approached Maryland Senator Blair Lee, whose seat I am proud to occupy, asking for help in the rerouting of the thoroughfare. Senator Lee wrote to President Woodrow Wilson and arranged a meeting between the President and Colonel Harper. That meeting led President Wilson to lobby on behalf of the proposed change in the route.

Through the efforts of President Wilson, Senator Lee, and Colonel Harper, the President of the Lincoln Highway Association was convinced to change the course of the highway so that it could pass through the Nation’s Capital. This change brought additional visitors to both the State of Maryland and Washington, DC. In addition, the change preserved the spirit of President Abraham Lincoln and united the west and east coasts of the United States of America.

I am pleased to commemorate the 90th anniversary of the Lincoln Highway as a “Road of Character” and a “Perpetual Memorial” to President Lincoln, which both commemorated a great leader and paved the way for the future of transportation in America.

TRIBUTE IN HONOR OF MR. DARYL E. HARMS

Mr. SHELBY. Mr. President, today I wish to pay tribute to a great entrepreneur, Mr. Daryl E. Harms. Daryl, who passed away on July 9, 2005, led a life of great purpose, from his childhood days in Illinois to his time as a businessman in Birmingham, AL. As the son of a farmer, Daryl learned the values of hard work, dedication and commitment, and he utilized these qualities throughout his life to dream big, conquer challenging tasks, and carry out innovative ideas.

He began his distinguished career, along with his business partner Terry W. Johnson, as an industry pioneer in cable television, cellular communications and home security in the 1980s and 1990s. At the time of his death, he was the chief executive officer of Birmingham-based Masada Resource Group. This most recent business venture developed, patented and applied new technologies to convert solid wastes to renewable biofuels.

Daryl was featured as the “Door-to-Door Billionaire” in Fortune Small Business magazine for his keen business sense and ability to transform a risky venture into success. His fearlessness in business was recognized by all who knew him.

While Daryl was focused on his business ventures, he was deeply committed to his community as well. He served at various times on the boards of the Alabama Republican Party, the American Cancer Society, Magic Moments, and Prescott House. He had a generous spirit and was determined to help others not only in his community but throughout the State of Alabama.

I should also say that Daryl distinguished himself in yet another way. He was a devoted family man who cherished his wife and children. He is survived by his wife Clarissa Busby Harms of Birmingham; his daughters Hannah Katherine Harms and Emily Elizabeth Harms of Birmingham; his father Walker Edward Harms of Quincy, IL; and his brothers Ursa, IL and Ken Harms of Sutter, IL. He was preceded in death by his mother Pauline Eshom Harms of Quincy, IL.

I ask my colleagues to join me in paying special tribute to Mr. Daryl E. Harms. Daryl’s entrepreneurial spirit and innovative mind distinguishes him as one of America’s great businessmen. He will be greatly missed by all who knew him.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:17 p.m., a message from the House of Representatives, delivered by the Clerk, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:


H.R. 532. An act to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

H.R. 3394. An act to designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the “Abraham Lincoln Birthplace Post Office Building”.

H.R. 2977. An act to designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the “Paul Kasten Post Office Building”.

H.R. 3350. An act to amend title 38, United States Code, to enhance the Servicemembers’ Group Life Insurance program, and for other purposes.

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the “James T. Molley Post Office Building”.

H.R. 3423. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

The message also announced that the House has passed the following bills, without amendment:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and reduce the incidence of events that adversely affect patient safety.

S. 1386. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System.

H.R. 481. An act to further the purposes of the San Juan Mountains National Historic Site Establishment Act of 2000.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.
H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city’s water in the Kendrick Project, Wyoming.

At 6:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that Speaker has signed the following enrolled bill: S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

MEASURES REFERRED
The following bills were read the first time and, for other purpese, by unanimous consent, and referred as indicated:
H.R. 525. An act to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.
H.R. 984. An act to designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the “Abraham Lincoln Birthplace Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.
H.R. 2977. An act to designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the “Paul Kasten Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.
H.R. 3200. An act to amend title 38, United States Code, to enhance the ability of the Secretary of Veterans Affairs to provide adequate medical care for their employees; to the Committee on Veterans’ Affairs.
H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the “James T. Mollov Post Office Building”; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR
The following bill was read the second time and, placed on the calendar:
H.R. 1979. An act 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 hydro-power by the Grand Coulee Dam, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

EXECUTIVE AND OTHER COMMUNICATIONS
The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:
EC–3231. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “2,4-D; Pesticide Tolerance” (FRL No. 7726–8) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3222. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Lignosulfonates: Exemptions from the Requirement of a ‘Tolerance’” (FRL No. 7720–3) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3223. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Pinoxaden; Pesticide Tolerance” (FRL No. 7725–5) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3224. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Propiconazole; Pesticide Tolerances for Emergency Exemptions” (FRL No. 7727–1) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3226. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Eparbyl Methyl; Pesticide Tolerance” (FRL No. 7723–5) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3227. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Propiconazole; Pesticide Tolerance; Technical Correction” (FRL No. 7724–5) received July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3228. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (9 subjects on 1 disc beginning with “COBRA Runs for Oceana-Cannon-Moody-Seymour Johnson”) relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3229. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with “Inquiry Response Regarding C-130 Squadron Size”) relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3230. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with “Inquiry Response Regarding NAS Brunswick”) relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3231. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the Semiannual Report of the Inspector General of NASA for the period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3232. A communication from the Deputy Director for Government Relations and Special Projects, Office of Government Ethics, transmitting, a proposal “To amend the Uniform Meat Inspection Act of 1933” to authorize the Office of Government Ethics” received on July 25, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3233. A communication from the Secretary of Labor and the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of a draft bill entitled “YouthBuild Transfer Act of 2005” received on July 25, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3234. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled “Rulemaking for EDGAR System” (RIN 3255–AH79) received on July 25, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3235. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Amendment to the Interim Final Regulation for Mental Health Parity” (RIN 0930–AA16) received on July 25, 2005; to the Committee on Finance.

EC–3236. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Section 457(b) Plans: Federal Credit Unions” (Notice 2005–15) received on July 25, 2005; to the Committee on Finance.

EC–3237. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX” (RIN 1625–AA97) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3238. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Anchorage Grounds and Safety Zone; Delaware River” (RIN 1625–AA99) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3239. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Security Zones; Cuyahoga River and Lake Erie, Ohio; Change of Location” (RIN 1625–AA87) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3240. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Regulated Navigation Area; Chicago Sanitary and Ship Canal, Romeoville, IL” (RIN 1625–AA11) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3241. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled “Special
Local Regulations (including 3 regulations) (RIN1625-AA08) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3243. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, pursuant to law, the report of a rule entitled “Safety Zones (including 3 regulations)” (RIN1625-AA00) (RIN1625-AA07) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3244. A communication from the [name withheld], Attorney General, Department of Transportation, pursuant to law, the report of a rule entitled “Luminate Event Recorders” (RIN2130-AB04) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3245. A communication from the [name withheld], Federal Railroad Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Class E2 Airspace; Bar Harbor, ME” (RIN2130-AA66) (2005-0148) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3246. A communication from the [name withheld], Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Area Navigation Routes; AK” (RIN2130-AA66) (2005-0151) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3247. A communication from the [name withheld], Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Parsons, KS” (RIN2129-AA66) (2005-0162) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3248. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Area Navigation Routes; AK” (RIN2130-AA66) (2005-0152) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3249. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Class E2 Airspace; Columbus, NE” (RIN2130-AA66) (2005-0141) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3250. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Revision of Federal Airways V-2, V-257, and V-365; MT” (RIN2129-AA66) (2005-0138) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3251. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Revision of Jet Route 94 (RIN2130-AB04) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3252. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Revision of Class E Airspace; Providence, RI” (RIN2129-AA66) (2005-0149) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3253. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Revision of Federal Airways; AK” (RIN2130-AA66) (2005-0158) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3254. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Parsons, KS” (RIN2129-AA66) (2005-0162) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3255. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Modification of Class E Airspace; Parsons, KS” (RIN2129-AA66) (2005-0162) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3256. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Class E2 Airspace; Bob Baker Memorial Airport, Kiana, AK” (RIN2129-AA66) (2005-0142) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3257. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Chalkyitsik, AK” (RIN2129-AA66) (2005-0143) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute (S. 172) - A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes. (Rept. No. 109-110)

S. 118. A bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States (Rept. No. 109-111)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time, and referred, as indicated:

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, Mr. DEMINT, Mr. COBURN, and Mr. CORNYN): S. 4. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN (for himself and Mr. McCAIN): S. 150. A bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of
existing communication service, and to provide parity between functionally equivalent services; to the Committee on Commerce, Science, and Transportation.

By Mr. Coburn (for himself and Mr. Inhofe):
S. 1505. A bill to amend the Shawnee Tribe Status Act of 2000 to the Committee on Indian Affairs.

By Mrs. Clinton (for herself and Mr. Schumer):
S. 1506. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to include certain former nuclear weapons program workers in the civilian cohort under energy employees occupational illness compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Ms. Mikulski (for herself, Mr. Carper, Mr. Pryor, Ms. Landrieu, Mr. Lieberman, Mr. Salazar, Ms. Stabenow, Mr. Bayh, and Mr. Conrad):
S. 1507. A bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and related crimes against children; to the Committee on Finance.

By Mr. Feingold (for himself, Mr. McCain, and Mr. Cochran):
S. 1508. A bill to require Senate candidates to file designations, statements, and reports in electronic form; to the Committee on Rules and Administration.

By Mr. Jeffords (for himself, Mr. Chafee, Mr. Lieberman, and Mr. Lautenberg):
S. 1509. A bill to amend the Lacey Act Amendments of 1981 to add non-human primates to the definition of prohibited wildlife species; to the Committee on Environment and Public Works.

By Mr. Salazar:
S. 1510. A bill to designate as wilderness certain lands within the Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. Salazar:
S. 1511. A bill to provide for a study of options for protecting the open space characteristics of certain land in and adjacent to the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Ms. Mikulski, Mr. Biden, Mrs. Clinton, Ms. Murkowski, Mrs. Murray, Mr. Wyden, Mr. Lautenberg, Mr. Schumer, and Mr. Durbin):
S. 1512. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

By Ms. Mikulski (for herself, Mr. Biden, and Mr. SARBANES):
S. 1513. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DeMINT (for himself, Mr. Nelson of Florida, Mr. Isakson, Mr. Dayton, Ms. Murkowski, and Mr. Enzi):
S. 1514. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Finance.

By Mr. Inouye:
S. 1515. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the Committee on Finance.

By Mr. Lott (for himself, Mr. Lautenberg, Mr. Stevens, Mr. Inouye, and Mrs. Hutchison):
S. 1516. A bill to reauthorize Amtrak, and for other purposes to the Committee on Commerce, Science, and Transportation.

By Ms. Snowe (for herself, Mr. Kerry, Mr. DeMint, Mr. Coleman, and Mr. Pryor):
S. 1517. A bill to permit Women's Business Centers to re-compete for sustainability grants; considered.

By Mr. Voinovich (for himself and Mr. DeWine):
S. 1518. A bill to amend the Indian Gaming Regulatory Act to modify a provision relating to the locations in which class III gaming is lawful; to the Committee on Indian Affairs.

By Ms. Snowe (for herself, Mr. Lieberman, and Mr. Thune):
S. 1519. A bill to provide for an economic analysis of the impact of small business concerns and small governmental jurisdictions of agency and other decisions that result in a net loss of at least 1,000 jobs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. Feinstein (for herself, Mr. Hatch, Mr. Kennedy, Mr. Specter, Mr. Harkin, Ms. Snowe, Mr. Boxer, Ms. Collins, Mrs. Clinton, Mr. Chafee, Mr. Lautenberg, Mr. Stevens, Mr. Lieberman, Mr. Kerry, Mrs. Murray, Mr. Salazar, Ms. Stabenow, Ms. Mikulski, Mr. Jeffords, Mr. Inouye, and Ms. Boxer):
S. 1520. A bill to prohibit human cloning; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, referred (or acted upon), as indicated:

By Mr. Smith (for himself, Mr. Wyden, Mrs. Murray, Mrs. Feinstein, and Mr. Boxer):
S. Res. 215. A resolution designating December 2005 as “National Pear Month”; to the Committee on the Judiciary.

By Mr. Santorum (for himself and Mr. Specter):
S. Res. 216. A resolution expressing gratitude and appreciation to the men and women of the United States Armed Forces who served in World War II, commending the acts of heroism and dedication of those individuals, including servicemembers, and recognizing the “Greatest Generation Homecoming Weekend” to be held in Pittsburgh, Pennsylvania; considered and agreed to.

By Mrs. Murray (for herself and Ms. Cantwell):

By Mr. Durbin (for himself and Mr. Corzine):
S. Con. Res. 43. A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down Syndrome; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS
S. 65
At the request of Mr. Inhofe, the name of the Senator from Virginia (Mr. Allen) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 147
At the request of Mr. Akaka, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 392
At the request of Mr. Levin, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397
At the request of Mr. Conrad, his name was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 619
At the request of Mrs. Feinstein, the name of the Senator from Illinois (Mr. Obama) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 700
At the request of Mr. SARBANES, the names of the Senators from New York (Mr. Schumer) and the Senator from Delaware (Mr. Carper) were added as cosponsors of S. 700, a bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 709
At the request of Mr. DeWine, the name of the Senator from Florida (Mr. Nelson) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 710
At the request of Mr. Crafo, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 781, a bill to preserve the use and access of pack and saddle stock animals on land administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service on which there is a historical tradition of the use of pack and saddle stock animals, and for other purposes.

S. 811
At the request of Mr. Durbin, the name of the Senator from Georgia (Mr. Isakson) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 895
At the request of Mr. Domenci, the name of the Senator from Arizona (Mr.
KYL) was added as a cosponsor of S. 895, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents.

At the request of Mrs. Feinstein, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation’s critical infrastructure.

At the request of Mr. Thune, the name of the Senator from Maine (Ms. Snowe) was added as a cosponsor of S. 963, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans’ health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

At the request of Mr. Baucus, the name of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

At the request of Mrs. Feinstein, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. 1013, a bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes.

At the request of Mr. Sununu, the names of the Senator from New York (Mr. Schumer) and the Senator from Idaho (Mr. Craig) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation’s past Presidents and their spouses, respectively, to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

At the request of Mrs. Lincoln, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1076, a bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel.

At the request of Mr. Kyl, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update of physicians’ services for 2006 and 2007.

At the request of Mr. Grassley, the names of the Senator from Ohio (Mr. Voinovich), the Senator from Nevada (Mr. Ensign) and the Senator from South Carolina (Mr. DeMint) were added as cosponsors of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

At the request of Mr. Lugar, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1129, a bill to provide authorizations of appropriations for certain development banks, and for other purposes.

At the request of Mr. Santorum, the name of the Senator from North Carolina (Mrs. Dole) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

At the request of Mr. Specter, the names of the Senator from Rhode Island (Mr. Chafee) and the Senator from Michigan (Mr. Domenici) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

At the request of Mr. Biden, the name of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

At the request of Mr. Corzine, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1249, a bill to require the Secretary of Education to rebate the amount of Federal Pell Grant aid lost as a result of the update to the tables for State and other taxes used in the Federal student aid need analysis for award year 2005-2006.

At the request of Mr. Vitter, the name of the Senator from Ohio (Mr. Voinovich) was added as a cosponsor of S. 1260, a bill to make technical corrections to the Indian Gaming Regulatory Act, and for other purposes.

At the request of Mr. Voinovich, the name of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 1265, a bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines.

At the request of Mr.arkin, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 1304, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code of 1986.

At the request of Mr. Frist, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1325, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity and eating disorder prevention, and for other purposes.

At the request of Mr. Baucus, the name of the Senator from Washington (Mrs. Murray) was added as a cosponsor of S. 1356, a bill to amend title XVIII of the Social Security Act to provide incentives for the provision of high quality care under the medicare program.

At the request of Mr. Craig, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

At the request of Mrs. Murray, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 1429, a bill to amend the Higher Education Act of 1965 to assist homeless students in obtaining postsecondary education, and for other purposes.

At the request of Mr. Sarbanes, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1490, a bill to amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program.

At the request of Mr. Sarbanes, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1491, a bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed.

At the request of Mr. Sarbanes, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1492, a bill to amend the Elementary and Secondary Education Act of 1965 to establish a pilot program to make grants to eligible institutions to develop, demonstrate, or disseminate information on practices, methods, or techniques relating to environmental education and training in the Chesapeake Bay Watershed.

At the request of Mr. Sarbanes, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1493, a bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative...
efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes.

S. 1394

At the request of Mr. SARRANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1394, a bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to establish programs to enhance protection of the Chesapeake Bay, and for other purposes.

S. RES. 21

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. J. Res. 21, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 158

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. Res. 158, a resolution expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

S. RES. 204

At the request of Mr. MURPHY, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Washington (Ms. CANTWELL), the Senator from Indiana (Mr. BAYH) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 204, a resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization.

AMENDMENT NO. 1373

At the request of Mr. REID, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 1373 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1363

At the request of Mr. GRAHAM, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 1363 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1505

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1505 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1548

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 1548 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1553

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 1553 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1554

At the request of Mr. CONRAD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 1554 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1559

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 1559 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1557

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. ENZI, Ms. MURKOWSKI, Mr. DEMINT, Mr. COBURN, and Mr. CORNYN):

S. 4. A bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 4

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 "Healthy America Act of 2005".

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

 Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—Medical Liability Reform
 Sec. 101. Short title.
 Sec. 102. Findings and purpose.
 Sec. 103. Encouraging speedy resolution of claims.
 Sec. 104. Compensating patient injury.
 Sec. 105. Maximizing patient recovery.
 Sec. 106. Additional health benefits.
 Sec. 107. Punitive damages.
 Sec. 108. Authorization of payment of future damages to claimants in health care lawsuits.
 Sec. 109. Definitions.
 Sec. 110. Effect on other laws.
 Sec. 111. State flexibility and protection of States' rights.
 Sec. 112. Applicability; effective date.
 Subtitle B—Health Information Technology
 CHAPTER I—GENERAL PROVISIONS
 Sec. 121. Improving health care, quality, safety, and efficiency.
 Sec. 122. HIPAA report.
 Sec. 123. Study of reimbursement incentives.
 Sec. 124. Reauthorization of incentive grants for electronic health records.
 Sec. 125. Sense of the Senate on physician payment.
 Sec. 126. Establishment of quality measurement systems for Medicare value-based purchasing programs.
 Sec. 127. Exception to Federal anti-kickback and physician self-referral laws for the provision of permitted support.
CHAPTER 2—VALUE BASED PURCHASING

Sec. 131. Value based purchasing programs.

Sec. 132. Findings and purposes.

Sec. 133. Amendments to Public Health Service Act.

Sec. 134. Studies and reports.

Sec. 135. National expansion of the medical error incident data match pilot program.


Sec. 137. Sense of the Senate on establishing a mandated benefits commission.

Sec. 138. Enforcement of reimbursement provisions by fiduciaries.

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Credit

Sec. 201. Refundable health insurance costs credit.

Sec. 202. Advance payment of credit to issuers of qualified health insurance.

Subtitle B—High Deductible Health Plans and Health Savings Accounts

Sec. 211. Deduction of premiums for high deductible health plans.

Sec. 212. Refundable credit for contributions to health savings accounts of small business employees.

Sec. 213. Improvement of the Health Coverage Tax Credit

Sec. 221. Change in State-based coverage rules related to preexisting conditions.

Sec. 222. Eligibility of spouse of certain individuals for Medicare.

Sec. 223. Eligible PBGC pension recipient.

Sec. 224. Application of option to offer State-based coverage to Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Sec. 225. Clarification of disclosure rules.

Sec. 226. Clarification that State-based COBRA continuation coverage is subject to same rules as Federal COBRA.

Sec. 227. Application of rules for other specified coverage to alternative TAA recipients consistent with rules for other eligible individuals.

Subtitle D—Long-Term Care Insurance

Sec. 231. Sense of the Senate concerning long-term care.

Sec. 232. Other Provisions.

Sec. 233. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

Sec. 234. Microentrepreneurs.

Sec. 235. Study on access to affordable health insurance for full-time college and university students.

Sec. 236. Extension of funding for operation of State high risk health insurance pools.

Sec. 237. Sense of the Senate on affordable health coverage for small employers.

Subtitle E—Covering Kids

Sec. 251. Short title.

Sec. 252. Grants to promote innovative outreach and enrollment under Medicaid and SCHIP.

Sec. 253. State option to provide for simplified determinations of a child’s financial eligibility for medical assistance under medical care or child health assistance under SCHIP.

TITLES III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

Sec. 301. Purpose.

Sec. 302. High need community health centers.

Sec. 303. Grant application process.

Subtitle B—Quality Integrated Health Care Systems

Sec. 311. Definitions.

Sec. 312. Quality integrated health care systems.

Sec. 313. Grants for quality integrated health care systems.

Subtitle C—Miscellaneous Provisions

Sec. 314. Community health center collaborative access expansion.

Sec. 315. Improvements to section 340B program.

Sec. 316. Forbearance for student loans for physicians providing services in free clinics.

Sec. 317. Amendments to the Public Health Service Act relating to liability.

Sec. 318. Sense of the Senate concerning health disparities.

Sec. 319. Amendments to SCHIP.

Sec. 320. Forbearance for student loans for physicians providing services in free clinics.

Sec. 321. Amendments to the Public Health Service Act relating to liability.

Sec. 322. Sense of the Senate concerning health disparities.

TITLES IV—MAKING HEALTH CARE MORE AFFORDABLE

CHAPTER 1—MEDICAL LIABILITY REFORM

Sec. 101. Short title.

This subtitle may be cited as the “Patients First Act of 2005”.

Sec. 102. Findings and purpose.

(a) Findings.—

(1) Effect on health care access and costs.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the current health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) Effect on health care costs.—Congress finds that the presence of a foreign body, which may be caused by a negligent act of a health care professional, may be discovered during the course of medical treatment by the patient or other health care professional and, if discovered, may be removed at no cost to the patient.

(3) Effect on federal spending.—Congress finds that the presence of a foreign body, which may be caused by a negligent act of a health care professional, may be discovered during the course of medical treatment by the patient or other health care professional and, if discovered, may be removed at no cost to the patient.

(b) Purpose.—It is the purpose of this subtitle to make American health care more affordable by providing American businesses with competitive health care by creating a fair and effective health care liability system that resolves disputes over, and provides compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals.

(4) Improve the fairness and cost-effectiveness of our current health care liability system.

(c) The time for the commencement of a health care liability lawsuit shall exceed 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, which ever occurs first.

In no event shall the time for commencement of a health care liability lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Unpaid loan for medical care services.

(2) Intentional concealment.

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years of the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever time period occurs first. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care professional or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

Sec. 103. Encouraging speedy resolution of claims.

(a) Unlimited amount of damages for actual economic losses in health care lawsuits.—In any health care lawsuit, the full extent of a claimant’s economic losses shall be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(b) Additional noneconomic damages.—In any health care lawsuit, the amount of noneconomic damages may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) No discount of award for non-economic damages.—In any health care lawsuit, an award for future non-economic damages shall not be discounted to present value.

The jury shall not be informed about the maximum award for non-economic damages.

An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment...
of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $200,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party’s several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party’s percentage of responsibility. A separate judgment shall be entered for each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant’s harm.

SEC. 105. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In any health care lawsuit in which the attorney for a party claims a financial stake in the outcome of a contingent fee, the court shall have the power to restrict each such party for the amount allocated to such party. For purposes of this section, the financial stake of an attorney is deemed to exist if such attorney has an actual or potential interest in the result of the lawsuit that is not independent of the plaintiff’s interest. The court shall consider only the following:

(1) 40 percent of the first $50,000 recovered by the claimant(s);

(2) $600,000.

(b) APPLICABILITY.—The limitations in subsection (a) shall apply whether the recovery is by settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court may order any person who is not a health care provider to personally pay any award of damages to the claimant and such person may be held personally liable for the amount of such award.

(c) EXPERT WITNESSES.—In any health care lawsuit, an individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(1) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review;

(2) is an expert witness in medicine who has been designated as the plaintiff’s treating physician by the plaintiff; and

(3) the profi tability of the conduct to such party;

(4) the number of products sold or medical procedures rendered for compensation, as the court may, by such party, of the kind causing the harm complained of by the claimant;

(5) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(6) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal law, subsection (a) shall not apply.

(c) APPLICABILITY.—This section shall apply to all health care lawsuits that are settled or resolved by a fact finder.

SEC. 107. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant or with reckless indifference to the claims of the claimant and that such person acted with malicious intent to injure the claimant or with reckless indifference to the claims of the claimant.

(b) FACTORS CONSIDERED.—(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the court shall consider the following:

(1) The nature and circumstances of the conduct;

(2) The duration of the conduct or any continuation of the conduct;

(3) The nature and duration of any prior similar conduct;

(4) The nature of any prior complaints or reports of similar conduct;

(5) The amount of any economic or noneconomic damages sustained by the claimant;

(6) The amount of punitive damages, if any, awarded in any other health care lawsuit or any other lawsuit involving similar conduct;

(7) The amount of any punitive damages, if any, awarded in any other health care lawsuit or any other lawsuit involving similar conduct;

(8) The amount of any punitive damages, if any, awarded in any other health care lawsuit or any other lawsuit involving similar conduct;

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(57) The amount of any punitive damages, if any, awarded in any other health care lawsuit or any other lawsuit involving similar conduct;

(58) The amount of any punitive damages, if any, awarded in any other health care lawsuit or any other lawsuit involving similar conduct;
(4) COMPENSATORY DAMAGES.—The term ‘‘compensatory damages’’ means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or products, regardless of the theory of liability on which a health care lawsuit is brought for a vaccine-related injury or death—

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal or State law that a provider of vaccines is required to provide, use, or pay for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which a health care lawsuit is brought for a vaccine-related injury or death—

(1A) this subtitle does not affect the application of the rule of law to such an action; and

(1B) any rule of law prescribed by this subtitle in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this subtitle or otherwise applicable State law (as determined under this subtitle) will apply to such aspect of such action.

(3) OTHER FEDERAL LAW.—Except as provided in sections (a) and (b) of this subtitle, any action to which this subtitle shall be deemed to affect any relief available to a defendant in a health care lawsuit or action under any other provision of Fed-

SEC. 111. STATE FLEXIBILITY AND PROTECTION OF STATES’ RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this subtitle preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this subtitle. The provisions governing health care lawsuits set forth in this subtitle supersedes chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced scope of periodic payment of future damages, than provided in this subtitle; or

(2) prohibits the introduction of evidence regarding collateral source benefits or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES’ RIGHTS.—Any issue that is not governed by provisions of law established by or under this subtitle (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This subtitle does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this subtitle.

(c) STATE FLEXIBILITY.—No provision of this subtitle shall be deemed to—

(1) any State law (whether effective before, on, or after the date of the enactment of this subtitle) that specifies a particular mone-

etary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care law-
suit, regardless of whether such monetary amount is greater or lesser than is provided for under this subtitle, notwithstanding sub-

section 10(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 112. APPLICABILITY; EFFECTIVE DATE.

This subtitle shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

Subtitle B—Health Information Technology

CHAPTER 1—GENERAL PROVISIONS

SEC. 121. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:
Title XXIX—Health Information Technology

SEC. 2901. DEFINITIONS. In this title:

(1) HEALTH CARE PROVIDER.—The term ‘health care provider’ means a hospital, skilled nursing facility, home health entity, health care clinic, federally qualified health center, an intermediate care facility for individuals with intellectual disabilities (as defined in section 1915(c)(12) of the Social Security Act), a psychiatric hospital, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

(2) HEALTH INFORMATION.—The term ‘health information’ has the meaning given that term in section 1171(i) of the Social Security Act.

(3) HEALTH INSURANCE PLAN.—The term ‘health insurance plan’ means—

(A) a health insurance issuer (as defined in section 2791(b)(2));

(B) a group health plan (as defined in section 733(2)(A)); and

(C) a health maintenance organization (as defined in section 2791(b)(3)).

(4) LABORATORY.—The term ‘laboratory’ has the meaning given that term in section 353.

(5) PHARMACIST.—The term ‘pharmacist’ has the meaning given that term in section 1877(h)(4) of the Social Security Act.

(6) STATE.—The term ‘State’ means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. 2902. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY. (a) Office of National Health Information Technology. There is established within the Office of the Secretary an Office of the National Coordinator of Health Information Technology (referred to in this section as the ‘Office’). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary, in consultation with the President, and shall report directly to the Secretary.

(b) Purposes. It shall be the purpose of the Office to coordinate with relevant Federal agencies and oversee programs and activities related to a nationwide, interoperable health information technology infrastructure that—

(1) ensures that patients’ individually identifiable health information is secure and protected;

(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

(4) ensures the appropriate information to help guide medical decisions is available at the time and place of care;

(5) promotes a more effective marketplace, greater competition, and increased choice through the wider availability of accurate information on health care costs, quality, and outcomes; and

(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

(c) Duties of the National Coordinator. The National Coordinator shall—

(1) serve as the principal advisor to the Secretary concerning the development, application, and use of health information technology, and coordinate and oversee the health information technology programs of the Department;

(2) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health insurance information;

(3) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

(4) ensure that health information technology policy and programs of the Department are consistent with the goal of avoiding duplication of efforts and of helping to ensure that such agencies undertake health information technology activities primarily within the areas of its greatest expertise and technical capability;

(5) bring the public-private American Health Information Collaborative and other relevant Federal commissions) with public and private parties of interest, including consumers, payers, employers, hospitals and other health care providers, physicians, community health centers, laboratories, vendors and other stakeholders, together to—

(A) advise the Secretary regarding specific Federal health information technology programs and

(B) submit the reports described under section 2903(c) (excluding paragraph (4) of such section). (d) RULE OF CONSTRUCTION. Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Office, regardless of whether such an Office existed prior to or after the enactment of this title.

SEC. 2903. AMERICAN HEALTH INFORMATION COLLABORATIVE.

(a) Purpose. The Secretary shall establish the public-private American Health Information Collaborative (referred to in this section as the Collaborative) to—

(1) advise the Secretary and recommend specific actions to achieve a nationwide interoperable health information technology infrastructure;

(2) serve as a forum for the participation of a broad range of stakeholders to provide input on achieving the interoperability of health information technology; and

(3) recommend standards (including content, communication, and security standards) for the electronic exchange of health information for adoption by the Federal Government and voluntary adoption by private entities.

(b) Composition. (1) In General.—The Collaborative shall be composed of—

(A) the Secretary, who shall serve as the chairperson of the Collaborative;

(B) the Secretary of Defense, or his or her designee;

(C) the Secretary of Veterans Affairs, or his or her designee;

(D) the Secretary of Commerce, or his or her designee;

(E) representatives of other relevant Federal agencies, as determined appropriate by the Secretary; and

(F) representatives from among the following categories to be appointed by the Secretary from nominations submitted by the public—

(i) consumer and patient organizations;

(ii) experts in health information privacy and security;

(iii) health care providers;

(iv) health insurance plans or other third party payors;

(v) standards development organizations;

(vi) information technology vendors;

(vii) purchasers or employers; and

(viii) State or local government agencies or Indian tribe or tribal organizations.

(2) Considerations. In appointing members under paragraph (1)(F), the Secretary shall select individuals with expertise in—

(A) health information;

(B) health information security;

(C) health care quality and patient safety, including those individuals with experience in developing health information technology to improve health care quality and patient safety;

(D) data exchange; and

(E) developing health information technology standards and new health information technology.

(3) Terms. Members appointed under paragraph (1)(G) shall serve for 2 years terms, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve for not to exceed 180 days after the expiration of such member’s term or until a successor has been appointed.

(c) Recommendations and Policies. The Collaborative shall make recommendations to identify uniform national policies for adoption by the Federal Government and voluntary adoption by private entities to support the widespread adoption of health information technology, including—

(1) protection of individually identifiable health information through privacy and security practices;

(2) measures to prevent unauthorized access to health information;

(3) methods to facilitate secure patient access to health information; and

(4) the ongoing harmonization of industry-wide health information technology standards.

(b) Recommendations for a nationwide interoperable health information technology infrastructure;

(6) the identification and prioritization of specific use cases for which health information technology is valuable, beneficial, and feasible;

(7) recommendations for the establishment of an entity to ensure the continuation of the functions of the Collaborative; and

(8) other policies determined to be necessary by the Collaborative.

(d) Standards. (1) Existing Standards. The standards adopted by the Consolidated Health Informatics Initiative shall be deemed to have been recommended by the Collaborative under this section.

(2) First Year Review. Not later than 1 year after the date of enactment of this title, the Collaborative shall—

(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

(B) identify deficiencies and omissions in such existing standards; and

(C) identify duplication and overlap in such existing standards; and recommend modifications to such standards as necessary.

(3) Second Year Review. Beginning 1 year after the date of enactment of this title, and annually thereafter, the Collaborative shall—

(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under paragraph (2)(A);

(B) identify deficiencies and omissions in such existing standards; and
“(C) identify duplication and overlap in such existing standards; and recommend modifications to such standards as necessary.

“(D) WHICH.—The standards described in this section shall be consistent with any standards developed pursuant to the Health Insurance Portability and Accountability Act of 1996.

“(e) FEDERAL ACTION.—Not later than 60 days after the issuance of a recommendation from the Collaborative under subsection (d)(2), the Secretary of Health and Human Services, in consultation with the Secretary of Veterans Affairs, the Secretary of Defense, and representatives of other relevant Federal agencies determined appropriate by the Secretary, shall review such recommendations. The Secretary shall provide for the adoption by the Federal Government of any standard or standards contained in such recommendation.

“(f) COORDINATION OF FEDERAL SPENDING.—Not later than 1 year after the adoption by the Federal Government of a recommendation as provided for in subsection (e), and in compliance with chapter 113 of title 40, United States Code, no Federal agency shall expend Federal funds for the purchase of any form of health information technology or health information technology system for clinical care or for the electronic retrieval, storage, and dissemination of health information that is not consistent with applicable standards adopted by the Federal Government under subsection (e).

“(g) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in subsection (e), no Federal agency shall collect health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary for the purposes of providing health care, that is not consistent with applicable standards adopted under subsection (e).

“(h) VOLUNTARY ADOPTION.—

“(1) IN GENERAL.—Any standards adopted by the Federal Government under subsection (e) shall be voluntary with respect to private entities.

“(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private entity that enters into a contract with the Federal Government adopt the standards by the Federal Government under section 2903 with respect to activities not related to the contract.

“(3) LIMITATION.—Private entities that enter into a contract with the Federal Government shall be subject to any standards adopted under section 2903 for the purpose of activities under such Federal contract.

“(I) EFFECT ON OTHER PROVISIONS.—Nothing in this title shall be construed to affect the scope or substance of—

“(1) section 264 of the Health Insurance Portability and Accountability Act of 1996; and

“(2) sections 1171 through 1179 of the Social Security Act; and

“(3) any regulation issued pursuant to any such section; and such sections shall remain in effect and shall apply to the implementation of standards, programs and activities under this title.

“(j) REPORTS.—The Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, on an annual basis, a report that—

“(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of an interoperable nationwide system for the electronic exchange of health information;

“(2) describes barriers to the adoption of such a nationwide system;

“(3) identifies recommendations to achieve full implementation of such a nationwide system; and

“(4) contains a plan and progress toward the establishment of the ability to ensure the continuation of the functions of the Collaborative.

“(k) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Collaborative, except that the term provided for under section 1(a)(2) shall be 5 years.

“(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the establishment of the Collaborative, regardless of whether such efforts were carried out prior to or after the enactment of this title.

“SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

“(a) IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary, based upon the recommendations of the Collaborative, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

“(2) IMPLEMENTATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist private entities in the implementation of the standards adopted under this title using the criteria developed by the Secretary under this section.

“(b) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary may provide technical assistance to recipients of a grant under this section.

“(2) GRANTS.—The Secretary may make grants under this subsection (a), to States and the Federal Government, to provide technical assistance to recipients of such grants.

“(c) LIMITATION.—The Secretary shall disseminate information regarding the efficacy of a recipient of a grant under this section.

“SEC. 2905. STUDY OF STATE HEALTH INFORMATION LAWS AND PRACTICES.

“(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

“(1) the variation among State laws and practices that relate to the privacy, confidentiality, and security of health information;

“(2) how such variation among State laws and practices may impact the electronic exchange of health information—

“(A) among the States; and

“(B) between the States and the Federal Government; and

“(3) how such laws and practices may be harmonized to permit the secure electronic exchange of health information.

“(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to Congress a report that—

“(1) describes the results of the study carried out under subsection (a); and

“(2) makes recommendations based on the results of such study.

“SEC. 2906. SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.

“(a) IN GENERAL.—The Secretary may make grants to States to carry out programs under which States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilized under the standards adopted under section 2903—

“(1) among the States;

“(2) between the States and the Federal Government; and

“(3) among private entities.

“(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to States that demonstrate that any funding awarded under such a grant shall be used to harmonize privacy laws and practices between the States, the States and the Federal Government, and among private entities related to the privacy, confidentiality, and security of health information.

“(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of a recipient of a grant under this section.

“(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2006, and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

“SEC. 2907. LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

“(a) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

“(1) the variation among State laws that relate to the licensure, registration, and certification of medical professionals; and

“(2) how such variation among State laws impacts the secure electronic exchange of health information.

“(b) LICENSURE AND THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION.

“(1) IN GENERAL.—For the purpose of carrying out this title, there is authorized to be appropriated $125,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.

“(2) AVAILABLE.—Amounts appropriated under subsection (a) shall remain available through fiscal year 2010.

“SEC. 2908. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—For the purpose of carrying out this Act, this title, and the programs and activities established under this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2010.

“(b) ANNUAL.—Available for expenditures made under this title.

“SEC. 2909. HIPAA REPORT.

“(a) STUDY.—Not later than 2 years after the date of enactment of this title, the Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines the integration of the standards adopted under this title with the standards adopted under the Health Insurance Portability and Accountability Act of 1996.

“(b) REPORT.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that—

“(1) describes the results of the study carried out under subsection (a); and

“(2) makes recommendations based on the results of such study.

“(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of a recipient of a grant under this section.

“(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2006, and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

“(f) REPORT.—Not later than 3 years after the date of enactment of this title, the Secretary of Health and Human Services shall, based on the results of the study carried out under subsection (a), develop a plan for the integration of the standards described under such
subsection and submit a report to Congress describing such plan.

(2) Periodic reports.—The Secretary shall submit periodic reports to Congress that describe the progress and the integration described under paragraph (1).

SEC. 121. STUDY OF REIMBURSEMENT INCENTIVES.

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

SEC. 124. REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEREMEDI- CINE.

Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking ‘‘2002 through 2006’’ and inserting ‘‘2006 through 2010’’.

SEC. 125. SENSE OF THE SENATE ON PHYSICIAN PAYMENT.

It is the sense of the Senate that modifications to the Medicare fee schedule for physicians’ services under section 1848 of the Social Security Act (42 U.S.C. 1394w–4) should include provisions based on the reporting of quality and efficiency measures to be used under each system as adopted in section 2909 of the Public Health Service Act (as added by section 121) and the overall improvement of healthcare quality through the uniform adoption of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 121).

SEC. 126. ESTABLISHMENT OF QUALITY MEASURE-NMENT SYSTEMS FOR MEDICARE VALUE-BASED PURCHASING PROGRAMS.

(a) In General.—(1) Title XVIII of the Social Security Act (42 U.S.C. 1395dd et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

‘‘PART E—VALUE-BASED PURCHASING

‘‘QUALITY MEASUREMENT SYSTEMS FOR VALUE-BASED PURCHASING PROGRAMS

‘‘Sec. 1860E–1. (a) Establishment.—

‘‘(1) In general.—The Secretary shall develop and implement quality measurement systems for purposes of providing value-based payments to—

‘‘(A) hospitals pursuant to section 1860E–2;

‘‘(B) physicians and practitioners pursuant to section 1860E–3;

‘‘(C) plans pursuant to section 1860E–4;

‘‘(D) end stage renal disease providers and facilities pursuant to section 1860E–5; and

‘‘(E) home health agencies pursuant to section 1860E–6.

‘‘(2) Quality.—The systems developed under paragraph (1) shall measure the quality of the care furnished by the provider involved.

‘‘(3) High quality health care defined.—In this part, the term ‘high quality health care’ means health care that is safe, effective, patient-centered, timely, equitable, efficient, necessary, and appropriate.

(b) Requirements for Systems.—Under each quality measurement system described in subsection (a)(1), the Secretary shall do the following:

‘‘(1) Measures.—

‘‘(A) In general.—Subject to subparagraph (B), the Secretary shall select measures of quality to be used by the Secretary under each system.

‘‘(B) Descriptions.—In selecting the measures to be used under each system pursuant to subparagraph (A), the Secretary shall, to the extent feasible, ensure that—

‘‘(i) such measures are evidence-based, reliable and valid, and feasible to collect and report;

‘‘(ii) measures of process, structure, outcome, beneficiary experience, efficiency, and equity are included;

‘‘(iii) measures of overuse and underuse of health care items and services are included;

‘‘(iv) at least 1 measure of health information technology infrastructure that enables the provision of high quality health care and facilitates the exchange of health information, including the use of one or more elements of a qualified health information system (as defined in subparagraph (E)), is included during the first year each system is implemented;

‘‘(v) additional measures of health information technology infrastructure are included in subsequent years;

‘‘(vi) in the case of the system that is used to provide value-based payments to hospitals under section 1860E–2, by not later than January 1, 2008, at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas are included; and

‘‘(vii) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple chronic complex conditions are included.

‘‘(C) Requirement for Collection of Data on a Measure to Be Used Under the Systems.—On data on any measure selected by the Secretary under subparagraph (A) must be collected by the Secretary for at least a 12-month period before such measure may be used by the Secretary to determine whether a provider receives a value-based payment under a program described in subsection (a)(1).

‘‘(D) Authority to Vary Measures.—

‘‘(i) Under System Applicable to Hospitals.—In the case of the system applicable to hospitals under section 1860E–2, the Secretary may vary the measures selected under subparagraph (A) by hospital depending on the size of, and the scope of services provided by, the hospital.

‘‘(ii) Under System Applicable to Physicians and Practitioners.—In the case of the system applicable to physicians and practitioners under section 1860E–3, the Secretary may vary the measures selected under subparagraph (A) by physician or practitioner depending on the specialty of the physician, the type of practitioner, or the volume of services furnished to beneficiaries by the physician or practitioner.

‘‘(iii) Under System Applicable to Home Health Agencies.—In the case of the system applicable to home health agencies under section 1860E–6, the Secretary may vary the measures selected under subparagraph (A) by home health agency depending on the size of, and the characteristics of, the agency.

‘‘(iv) Under System Applicable to Home Health Agencies.—In the case of the system applicable to home health agencies under section 1860E–6, the Secretary may vary the measures selected under subparagraph (A) by home health agency depending on the size of, and the scope of services provided by, the agency.

‘‘(E) Qualified Health Information System Defined.—For purposes of subparagraph (B)(iv)(A), the term ‘qualified health information system’ means a computerized system (including hardware, software, and training) that—

‘‘(i) protects the privacy and security of health information and properly encrypts such health information;

‘‘(ii) maintains and provides access to patients’ health records in an electronic format;

‘‘(iii) incorporates decision support software to reduce medical errors and enhance health care quality;

‘‘(iv) is consistent with data standards and certification processes recommended by the Secretary;

‘‘(v) allows for the reporting of quality measures and

‘‘(vi) includes other features determined appropriate by the Secretary.

‘‘(2) Weights of Measures.—

‘‘(A) In General.—The Secretary shall assign weights to the measures used by the Secretary under each system.

‘‘(B) Consideration.—If the Secretary determines appropriate, in assigning the weights under subparagraph (A)—

‘‘(i) measures of clinical effectiveness shall be weighted more heavily than measures of beneficiary experience;

‘‘(ii) measures of risk adjusted outcomes shall be weighted more heavily than measures of process; and

‘‘(iii) the refinement of the weights assigned to measures under the system; and

‘‘(C) Maintenance.—

‘‘(A) In General.—The Secretary shall, as determined appropriate, but no more often than once each 12-month period, update each system, including through—

‘‘(i) the addition of new and accurate and precise measures under the systems and the retirement of existing outdated measures under the system;

‘‘(ii) the refinement of the weights assigned to measures under the system; and

‘‘(iii) the refinement of the risk adjustment procedures established pursuant to paragraph (3) under the system.

‘‘(B) Update Shall Allow for Comparison of Data.—Each update under subparagraph (A) of a quality measurement system shall allow for the comparison of data from one year to the next for purposes of providing value-based payments under the programs described in subsection (a)(1).

‘‘(D) Use of Most Recent Quality Data.—

‘‘(A) In General.—Except as provided in subparagraph (B), the Secretary shall use the most recent quality data with respect to the appropriate physician or provider involved that is available to the Secretary.

‘‘(B) Insufficient Data Due to Low Volume.—If the Secretary determines that there is insufficient data with respect to a measure or measures because of a low number of services provided, the Secretary may aggregate data across more than 1 fiscal or calendar year, as the case may be.

‘‘(C) Requirements for Developing and Updating the Systems.—In developing and updating each quality measurement system under this section, the Secretary shall—

‘‘(i) take into account the quality measures developed by nationally recognized quality measurement organizations, relevant health care provider organizations, and other appropriate groups;

‘‘(ii) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

‘‘(iii) consult with provider-based groups and clinical specialty societies;

‘‘(iv) take into account existing quality measurement systems that have been developed through a rigorous process of validation and with the involvement of entities and persons described in subsection (e)(2)(B); and

‘‘(v) take into account—

‘‘(A) each of the reports by the Medicare Payment Advisory Commission that are required under the Medicare Value Purchasing Act of 2005; and

‘‘(B) the results of—
“(i) the demonstration required under such Act;  
(ii) the demonstration program under section 1866A;  
(iii) the demonstration program under section 1866C; and  
(iv) any other demonstration or pilot program conducted by the Secretary relating to measuring and rewarding quality and efficiency of care; and  
(C) the report by the Institute of Medicine of the National Academy of Sciences under section 1866A of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).  
(d) IMPLEMENTATION OF THE SYSTEMS.—In implementing each quality measurement system under this section, the Secretary shall consult with entities—  
(1) that have joined together to develop strategies for quality measurement and reporting, including the feasibility of collecting and reporting meaningful data on quality, and  
(2) that involve representatives of health care providers, health plans, consumers, employers, purchasers, quality experts, government agencies, and other individuals and groups that are interested in quality of care.  
(e) ARRANGEMENT WITH AN ENTITY TO PROVIDE ADVICE AND RECOMMENDATIONS.—  
(1) ARRANGEMENT.—On and after July 1, 2006, the Secretary shall have in place an arrangement with an entity that meets the requirements described in paragraph (2) under which such entity provides the Secretary with advice on, and recommendations with respect to, the development and updating of the quality measurement systems under this section, including the assigning of weights to the measures under subsection (b)(2).  
(2) REQUIREMENTS DESCRIBED.—The requirements described in this paragraph are the following:  
(A) The entity is a private nonprofit entity governed by an executive director and a board.  
(B) The members of the entity include representatives of—  
(i) health plans and providers receiving reimbursement under this title for the provision of items and services, including health plans and providers with experience in the care of elderly and individ...
Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 921(c), by inserting ‘‘, in accordance with part C,’’ after ‘‘The Director shall’’;

(2) by redesignating part C as part D;

(3) by redesigning section 921 through 928, as so redesignated, respectively;

(4) in section 938(d) (as so redesignated), by striking the second sentence and inserting the following: ‘‘Penalties provided for under this section shall be imposed and collected civil money penalties under section 1128A of the Social Security Act (as added by section 126).’’

(5) in section 938(e) (as so redesignated), by striking ‘‘921’’ and inserting ‘‘931’’;

(6) by inserting after section 921 the following:

‘‘PART C—PATIENT SAFETY IMPROVEMENT

SEC. 921. DEFINITIONS.

In this part:

(1) NON-IDENTIFIABLE INFORMATION.—

(A) IN GENERAL.—The term ‘‘non-identifiable information’’ means—

(i) any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements that are—

(I) collected or developed by a provider for reporting to a patient safety organization, provided that they are reported to the patient safety organization within 60 days;

(II) requested by a patient safety organization (including the contents of such request), if they are reported to the patient safety organization within 60 days;

(III) reported to a provider by a patient safety organization;

(IV) collected by a patient safety organization from another patient safety organization, or developed by a patient safety organization, that could result in improved patient safety, health care quality, or health care outcomes;

or

(ii) any deliberative work or process with respect to any patient safety data described in clause (i).

(B) LIMITATION.—

‘‘(i) COLLECTION.—If the original material from which any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements referred to in subparagraph (A)(i) are collected and is not patient safety data, the act of such collection shall not make such original material patient safety data for purposes of this part.

(ii) SEPARATE DATA.—The term ‘‘patient safety data’’ shall not include information (including a patient’s medical record, billing and revenue cycle information, or any other patient or provider record) that is collected or developed separately from and that exists only from patients. Such separate information or a copy thereof submitted to a patient safety organization shall not itself be considered as patient safety data. Nothing in this paragraph except for section 922(f)(1) shall be construed to limit—

(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

(II) the reporting of information described in this subparagraph to a Federal, State, or local government agency or public health surveillance, investigation, or other public health purposes or health oversight purposes; or

(III) a provider’s recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

‘‘(3) PATIENT SAFETY ORGANIZATION.—The term ‘patient safety organization’ means a private or public entity or component thereof that is currently listed by the Secretary pursuant to section 922(c).

‘‘(4) PATIENT SAFETY ORGANIZATION ACTIVITIES.—The term ‘patient safety organization activities’ means the following activities, which are deemed to be necessary for the proper management and administration of a patient safety organization:

(A) The conduct, as its primary activity, of efforts to improve patient safety and the quality of health care delivery.

(B) The collection and analysis of patient safety data that are submitted by more than one provider.

(C) The development and dissemination of information to providers with respect to improvements in patient safety that are in effect at each Federal, State, and local government agency involved in health care and activities relating to these steps are ongoing.

(D) The research on patient safety unequivocally calls for a learning environment, rather than a punitive environment, in order to improve patient safety.

(7) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (6) as stated in the Institute of Medicine’s report.

(8) Promising patient safety reporting systems have been established throughout the United States and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(9) Many organizations currently collecting patient safety data have expressed a need for legal protections that will allow them to review protected information and collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections are inadequate to allow the sharing of information to promote patient safety.

(10) encourage a culture of safety and quality in the United States health care system by providing for legal protection of information reported voluntarily for the purposes of quality improvement and patient safety; and

(11) ensure accountability by raising standards and expectations for continuous quality improvements in patient safety.

SEC. 143. ADDITIONS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 921(c), by inserting ‘‘, in accordance with part C,’’ after ‘‘The Director shall’’;

(2) by redesignating part C as part D;

(3) by redesigning section 921 through 928, as so redesignated, respectively;

(4) in section 938(d) (as so redesignated), by striking the second sentence and inserting the following: ‘‘Penalties provided for under this section shall be imposed and collected civil money penalties under section 1128A of the Social Security Act (as added by section 126).’’

(5) in section 938(e) (as so redesignated), by striking ‘‘921’’ and inserting ‘‘931’’;

(6) by inserting after section 921 the following:

‘‘PART C—PATIENT SAFETY IMPROVEMENT

SEC. 921. DEFINITIONS.

In this part:

(1) NON-IDENTIFIABLE INFORMATION.—

(A) IN GENERAL.—The term ‘‘non-identifiable information’’ means—

(i) any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements that are—

(I) collected or developed by a provider for reporting to a patient safety organization, provided that they are reported to the patient safety organization within 60 days;

(II) requested by a patient safety organization (including the contents of such request), if they are reported to the patient safety organization within 60 days;

(III) reported to a provider by a patient safety organization;

(IV) collected by a patient safety organization from another patient safety organization, or developed by a patient safety organization, that could result in improved patient safety, health care quality, or health care outcomes;

or

(ii) any deliberative work or process with respect to any patient safety data described in clause (i).

(B) LIMITATION.—

‘‘(i) COLLECTION.—If the original material from which any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements referred to in subparagraph (A)(i) are collected and is not patient safety data, the act of such collection shall not make such original material patient safety data for purposes of this part.

(ii) SEPARATE DATA.—The term ‘‘patient safety data’’ shall not include information (including a patient’s medical record, billing and revenue cycle information, or any other patient or provider record) that is collected or developed separately from and that exists only from patients. Such separate information or a copy thereof submitted to a patient safety organization shall not itself be considered as patient safety data. Nothing in this paragraph except for section 922(f)(1) shall be construed to limit—

(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

(II) the reporting of information described in this subparagraph to a Federal, State, or local government agency or public health surveillance, investigation, or other public health purposes or health oversight purposes; or

(III) a provider’s recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

‘‘(3) PATIENT SAFETY ORGANIZATION.—The term ‘patient safety organization’ means a private or public entity or component thereof that is currently listed by the Secretary pursuant to section 922(c).

‘‘(4) PATIENT SAFETY ORGANIZATION ACTIVITIES.—The term ‘patient safety organization activities’ means the following activities, which are deemed to be necessary for the proper management and administration of a patient safety organization:

(A) The conduct, as its primary activity, of efforts to improve patient safety and the quality of health care delivery.

(B) The collection and analysis of patient safety data that are submitted by more than one provider.

(C) The development and dissemination of information to providers with respect to improvements in patient safety that are in effect at each Federal, State, and local government agency involved in health care and activities relating to these steps are ongoing.

(D) The research on patient safety unequivocally calls for a learning environment, rather than a punitive environment, in order to improve patient safety.

(7) Voluntary data gathering systems are more supportive than mandatory systems in creating the learning environment referred to in paragraph (6) as stated in the Institute of Medicine’s report.

(8) Promising patient safety reporting systems have been established throughout the United States and the best ways to structure and use these systems are currently being determined, largely through projects funded by the Agency for Healthcare Research and Quality.

(9) Many organizations currently collecting patient safety data have expressed a need for legal protections that will allow them to review protected information and collaborate in the development and implementation of patient safety improvement strategies. Currently, the State peer review protections are inadequate to allow the sharing of information to promote patient safety.

(10) PURPOSES.—It is the purpose of this subtitle to—
social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

(3) utilize in a disciplinary proceeding against an entity to enjoin any action or proceeding; or

(b) CONFIDENTIALITY.—Notwithstanding any other provision of Federal, State, or local law, patient safety data shall be privileged and, subject to the provisions of subsection (c)(1), (2), and (3),—

(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena; or

(2) process served against a patient safety organization at the time the data is submitted.

(c) EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

(1) Disclosure by a provider or patient safety organization of relevant patient safety data for use in a criminal proceeding only if the defendant would otherwise be subject to a penalty under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) or under section 1176 of the Social Security Act (42 U.S.C. 1320d–5) for the same disclosure.

(2) Voluntary disclosure of non-identifiable patient safety data by a provider or a patient safety organization to another such provider, to another such patient safety organization, to another such person that is a provider, a patient safety organization, or other person specified in regulations promulgated by the Secretary.

(3) Disclosure of patient safety data by a provider, a patient safety organization, or a contractor of a provider or patient safety organization, to another such person, to carry out patient safety organization and accreditation activities.

(4) Disclosure of patient safety data by a provider or patient safety organization to grantees or contractors carrying out patient safety research, evaluation, or demonstration projects authorized by the Director.

(5) Disclosure of patient safety data by a provider to an accrediting body that accredits that provider identified in, or providing, such data is obtained prior to such disclosure. Nothing in the preceding sentence shall be construed to prevent the release of patient safety data that is provided by, or that relates solely to, a provider from which the consent described in such sentence is obtained because one or more other providers do not provide, with respect to the disclosure of patient safety data that relates to such nonconsenting providers, consent for the future release of patient safety data that is provided by, or that relates solely to, a provider to which the information is disclosed in accordance with this part.

(g) REPORTER PROTECTION.—

(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information to the provider with the intention of having the information reported to a patient safety organization; or

(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an ‘adverse employment action’ includes—

(A) loss of job; or

(B) directly to a patient safety organization.

(3) EQUITABLE RELIEF.—Nothing in this section shall be construed to—

(1) limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

(2) limit or alter the implementation of any provision of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), section 1176 of the Social Security Act (42 U.S.C. 1320d–5), or any regulation promulgated under such section.

(4) prohibit a provider from reporting a crime to law enforcement authorities, regardless of whether knowledge of the existence of, or the description of, the crime is based on patient safety data, so long as the provider does not disclose patient safety data in making such report.

SEC. 922. PATIENT SAFETY NETWORK OF DATABASES.

(a) In general.—The Secretary shall maintain a patient safety network of databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other persons.

(b) Network of databases for the reporting of the patient safety
network of databases maintained under subsection (a) of nonidentifiable patient safety data, including necessary data elements, common and consistent definitions, and a standards development process for the processing of such data. To the extent practicable, such standards shall be consistent with the administrative simplification provisions in part C of title XI of the Social Security Act.

SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

(a) Certification.

(1) Initial certification.

Except as provided in paragraph (2), an entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity performs the patient safety organization activities described in subparagraph (A), submit a renewal certification to the Secretary that the entity performs the patient safety organization activities described in subparagraph (B), or submit a supplemental certification that it performs the patient safety organization activities described in subparagraph (C) within 2 years of submitting the initial certification under subparagraph (A).

(2) Renewal certification.

An entity that seeks to be a patient safety organization may—

(A) submit an initial certification that it intends to perform patient safety organization activities other than the activities described in subparagraph (B) of section 921(4); and

(B) within 2 years of submitting the initial certification under subparagraph (A), submit a supplemental certification that it performs the patient safety organization activities described in subparagraph (A) through (F) of section 921(4).

(3) Expiration and renewal.

(A) Expiration.

An initial certification under paragraph (1) or (2)(A) shall expire on the date that is 3 years after it is submitted.

(B) Renewal.

(1) In General.

An entity that seeks to remain a patient safety organization after the expiration of an initial certification under paragraph (1) or (2)(A) shall, within the 3-year period described in subparagraph (A), submit an initial certification to the Secretary that the entity performs the patient safety organization activities described in section 921(4).

(2) Term of renewal.

A renewal certification under clause (1) shall expire on the date that is 3 years after it is submitted, and may be renewed in the same manner as an initial certification.

(B) Acceptance of certification.

Upon the submission by an organization of an initial certification pursuant to subsection (a)(1) or (2)(A), a supplemental certification pursuant to subsection (a)(2)(B), or a renewal certification pursuant to subsection (a)(3)(B), the Secretary shall review such certification and—

1. if such certification meets the requirements of subsection (a)(1), (a)(2)(A), (a)(2)(B), or (a)(3)(B), as applicable, the Secretary shall notify the organization that such certification is accepted; or

2. if such certification does not meet such requirements, as applicable, the Secretary may—

(a) notify the organization that such certification is not accepted and the reasons therefor;

(b) list the organization as provided for in subsection (c); and

(c) list the organization.

(2) Protection to continue to apply.

If the privilege and confidentiality protections described in section 922 applied to data while an organization was listed, or during the 30-day period described in paragraph (1), such protections shall continue to apply to such data after the organization is removed from the listing under subsection (c)(2) and such data is nonidentifiable.

(g) Disposition of data.

If the Secretary removes an organization from the listing under subsection (c)(2), the Secretary shall—

1. with the approval of the provider and another patient safety organization, transfer such data to such other organization;

2. return such data to the person that submitted the data; and

3. if returning such data to such person is not practicable, destroy such data.

SEC. 925. TECHNICAL ASSISTANCE.

The Secretary, acting through the Director, may—

(A) assist States, as appropriate, to take action to protect the Federal share of organizations to discuss methodology, communication, data collection, or privacy concerns.

SEC. 926. PROMOTING THE INTEROPERABILITY OF HEALTH CARE INFORMATION TECHNOLOGY SYSTEMS.

(a) Development.

Not later than 30 months after the date of enactment of the Patient Safety and Quality Improvement Act of 2005, the Secretary shall develop or adopt voluntary standards that promote the electronic exchange of health care information.

(b) Updates.

The Secretary shall provide for the ongoing review and periodic updating of the standards developed under subsection (a).

(c) Dissemination.

The Secretary shall provide for the dissemination of the standards developed and updated under this section.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this part.

SEC. 144. STUDIES AND REPORTS.

(a) In General.

The Secretary of Health and Human Services shall enter into a contract (based upon a competitive contracting process) with an appropriate research organization for the conduct of a study to assess the impact of medical technologies and therapies on patient safety, patient benefit, health care quality, and the costs of care as a productivity growth. Such study shall examine—

1. the extent to which factors, such as the use of labor and technological advances, have contributed to increases in the share of the gross domestic product that is devoted to health care and the impact of medical technologies and therapies on such increases;

2. the extent to which early and appropriate introduction and integration of innovative medical technologies and therapies may affect the overall productivity and quality of the health care delivery systems of the United States; and

3. the relationship of such medical technologies and therapies to patient safety, patient benefit, health care quality, and cost of care.

(b) Report.

Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under subsection (a).

Subtitle D—Fraud and Abuse

SEC. 151. NATIONAL EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PILOT PROGRAM.

(a) Requirement of the Medicare Integrity Program—

Section 1893 of the Social Security Act (42 U.S.C. 1395wwd) is amended—

1. in subsection (b), by adding at the end the following:

"(g) Medicare-Medicaid data match program in accordance with subsection (g);";

and

2. by adding at the end the following:

"(g) Medicare-Medicaid data match program in accordance with subsection (g);"

SEC. 152. REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.

(A) In General.

The Secretary shall enter into contracts with eligible entities for the purpose of establishing, implementing, and operating the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(B) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(C) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(D) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(E) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(F) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(G) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(H) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(I) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(J) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(K) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(L) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(M) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(N) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(O) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(P) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(Q) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(R) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(S) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(T) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(U) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(V) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(W) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(X) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(Y) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

(Z) Program.

The Secretary shall establish, implement, and operate the Medicare-Medicaid data match program (commonly referred to as the "Medi-Medi Program") in accordance with this section.

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expenditures under the Medicaid program; and

(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, increased use of recovery of fraudulent, wasteful, or abusive expenditures.

(b) APPLICABLE NUMBER.—For purposes of subparagraph (A), the term ‘applicable number’ means—

(i) in the case of fiscal year 2006, 10 State Medicaid programs;

(ii) in the case of fiscal year 2007, 12 State Medicaid programs; and

(iii) in the case of fiscal year 2008, 15 State Medicaid programs.

(2) MEDICAID REIMBURSEMENT AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).

(b) FUNDING.—Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(i) in subsection (A), by striking ‘‘subparagraphs (B)’’ and inserting ‘‘subparagraphs (B) and (C);’’ and

(ii) by adding at the end the following:

‘‘(D) EXPANSION OF THE MEDICARE-MEDICAID DUAL ELIGIBILITY DATA MATCH PROGRAM.—Of the amount appropriated under subparagraph (A) for a fiscal year, the following amounts shall be used to carry out section 1892(b)(6) for that year:

(I) $10,000,000 of the amount appropriated for fiscal year 2006.

(II) $12,200,000 of the amount appropriated for fiscal year 2007.

(III) $15,800,000 of the amount appropriated for fiscal year 2008.’’.

Subtitle E—Miscellaneous Provisions

SEC. 161. SENSE OF THE SENATE ON ESTABLISHING A MANDATED BENEFITS COMMISSION.

It is the Sense of the Senate that—

(1) there should be established an independent Federal entity to study and provide advice to Congress on existing and proposed federally mandated health insurance benefits offered by employer-sponsored health plans and insurance issuers; and

(2) advice provided under paragraph (1) should be evidence- and actuarially-based, and take into consideration the population costs and the costs of providing the health, financial, and social impact on affected populations, safety and medical efficacy, the impact on insurance issuers and providers generally, and to different types of insurance products, the impact on labor costs and jobs, and any other relevant factors.

SEC. 162. ENFORCEMENT OF REIMBURSEMENT PROVISIONS BY FIDUCIARIES.

Section 502(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(3)) is amended by inserting before the semicolon the following: ‘‘(which may include the recovery of amounts on behalf of the plan by a fiduciary enforcing the terms of the plan that provide a right of recovery by reimbursement or subtraction with respect to benefits provided to a participant or beneficiary).’’

TITLE II—EXPANDING ACCESS TO AFFORDABLE HEALTH COVERAGE THROUGH TAX INCENTIVES AND OTHER INITIATIVES

Subtitle A—Refundable Health Insurance Tax Credit

SEC. 201. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—In the case of an individual, the credit allowed by this subsection is equal to—

(i) the number of percentage points which bears the same ratio to 50 percentage points as—

(A) the excess of modified adjusted gross income in excess of $15,000, bears to $1,000, or

(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $25,000, bears to $11,000.

(ii) $15,000.

(C) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to $7,500.

(ii) $5,000.

(D) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $25,000, bears to $11,000.

(ii) $15,000.

(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $25,000, bears to

(ii) $15,000.

(C) MARRIED FILING SEPARATE RETURN.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to

(ii) $7,500.

(ii) $5,000.

(E) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $25,000, bears to

(ii) $11,000.

(iii) $15,000.

(iv) $20,000.

(B) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR COVERAGE OF MORE THAN ONE PERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a taxpayer with coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to

(ii) $7,500.

(iii) $5,000.

(iv) $3,000.

(R) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has coverage of more than one person, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to

(ii) $7,500.

(iii) $5,000.

(iv) $3,000.

(S) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to

(ii) $7,500.

(iii) $5,000.

(iv) $3,000.

(T) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer who is married filing a separate return for the taxable year and who has one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for the taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 90 percentage points as—

(i) the excess of modified adjusted gross income in excess of $12,500, bears to

(ii) $7,500.

(iii) $5,000.

(iv) $3,000.
"(2) GROUP HEALTH PLAN COVERAGE.—

(A) IN GENERAL.—The term ‘coverage month’ shall not include any month for which if, as of the first day of the month, the individual participates in any group health plan (within the meaning of section 5000 without regard to section 5000(d)).

(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—(A) A State program under which an individual is not employed by the State for any month under section 106 (other than coverage described in clause (i) or (ii) of section 223(c)(1)(B)).

(C) EMPLOYER-PROVIDED COVERAGE.—The term ‘coverage month’ shall not include any month with respect to an individual if, of the first day of such month, such individual—

(A) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

(B) is enrolled in the program under title XXI or XXII of such Act

(3) CERTAIN OTHER COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 (other than coverage described in clause (i) or (ii) of section 223(c)(1)(B)).

(D) MEDICARE, MEDICAID, AND SCHIP.—The term ‘coverage month’ shall not apply to an individual if the individual’s only coverage for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

(4) QUALIFIED MEDICAID.—Clarification (A) is coverage described in paragraph (2),...

(5) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year if... the individual... is present in the United States on the first day of such month...

(6) PRISONERS.—The term ‘coverage month’ shall not apply to a month in which the... individual is imprisoned under Federal, State, or local authority...

(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year if... the individual... is present in the United States on the first day of such month...

(8) INCOME PHASEOUT AMOUNTS.—In the case of amounts paid under a State high-risk pool described in subparagraph (C) of section 35(e)(1).

(9) ARRANGEMENTS UNDER WHICH INSURERS CONTRIBUTED TO HSA.—

(A) IN GENERAL.—For purposes of this section, health insurance shall not... be treated as qualified health insurance...

(B) ARRANGEMENTS DESCRIBED.—

(1) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health coverage month in excess of the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if the arrangement...

(2) ARRANGEMENTS DESCRIBED.—

(A) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health care coverage during a taxable year in which such individual’s taxable year begins.

(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than $700,000.

(C) COVERAGE MEETS THE REQUIREMENTS OF PARAGRAPHS (3) THROUGH (8) OF SUBSECTION (a) OF SECTION 7805.

(4) REQUIREMENTS.—The requirements of this paragraph are as follows:

(A) COST LIMITS.—The coverage meets the requirements of section 223(c)(2)(A)(ii).

(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than $700,000.

(C) COVERAGE MEETS THE REQUIREMENTS OF PARAGRAPHS (3) THROUGH (8) OF SUBSECTION (a) OF SECTION 7805.
“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined with ‘calendar year 1992’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

“(b) ARCHER MSA CONTRIBUTIONS. — IRA Contributions. — If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year for the Archer MSA of an individual or under section 233 to the taxpayer for a payment for the taxable year to the Health Savings Account of such individual, subsection (a) shall not apply to the taxpayer for any month during such taxable year for which the taxpayer, spouse, or eligible dependent is an eligible individual for purposes of either such section.

“(1) OTHER RULES.—For purposes of this section—

“(1) COORDINATION WITH MEDICAL EXPENSE AND PREMIUM DEDUCTIONS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The amount which would be allowed under subsection (b) shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for such taxable year.

“(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF self-Employed INDIVIDUALS.—No deduction shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for such taxable year.

“(3) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

“(4) COORDINATION WITH SECTION 36.—If a taxpayer is eligible for the credit allowed under this section and section 35 for any taxable year, the taxpayer shall elect which credit is to be allowed.

“(j) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

“(k) REGULATION.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(b) INFORMATION REPORTING.

(1) IN GENERAL.—Subpart B of part III of chapter 1 of the Internal Revenue Code of 1986 relating to information concerning transactions with other persons is amended by inserting after section 6050T the following:

“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

“(a) IN GENERAL.—Any person who, in connection with any business or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual for creditable health insurance, shall make a return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

“(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

“(C) the aggregate amount of payments described in subsection (a), and

“(D) such other information as the Secretary may prescribe.

“(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term ‘creditable health insurance’ means qualified health insurance (as defined in section 36(d)).

“(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

“(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from such individual to whom the statement is required to be furnished, and

“(3) the information required under subsection (b)(2)(B) with respect to such payments.

“The written statement required under the preceding sentence shall be furnished on or before January 31 of the calendar year for which the return under subsection (a) is required to be made.

“(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount is required to make the return under subsection (a).

“(f) ASSESSABLE PENALTIES.—

“(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following:

“‘(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),’.

“(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ‘or’ at the end of subparagraph (AA), by striking the period at the end of the subparagraph (BB) and inserting ‘and’, and by adding at the end the following:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance),’.

“(g) CONFORMING AMENDMENTS.—The table of sections for subpart B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 7529. Advance payment of health insurance tax credit.

“(h) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2005.

“(2) PENALTIES.—The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act.

“SEC. 202. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

“(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:

“SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

“Not later than July 1, 2007, the Secretary shall establish a program for making payments to providers of qualified health insurance (as defined in section 36(d)) on behalf of individuals eligible for the credit under section 36. Such payments shall be made on the basis of modified adjusted gross income of eligible individuals for the preceding taxable year.

“(b) CLERICAL AMENDMENT.—The table of sections for chapter 36 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.

“Subtitle B—High Deductible Health Plans and Health Savings Accounts

“SEC. 211. DEDUCTION OF PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

“(a) IN GENERAL.—Part VII of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

“SEC. 224. PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.

“(a) DEDUCTION ALLOWED.—In the case of an individual, there shall be allowed as a deduction for the taxable year paid or incurred, and allocable to such year, the amount paid in the case of such individual as premiums under a high deductible health plan established for such year in accordance with regulations prescribed by the Secretary.

“(b) LIMITATIONS.—There shall be allowed as a deduction under subsection (a) only the amount paid by an eligible individual with respect to such health plan.
SEC. 212. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS OF SMALL BUSINESS EMPLOYERS.

(a) In General.—Subpart C of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 223(c)(2) the following new section:

`SECTION 36A. SMALL EMPLOYER CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

(a) General Rule.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to:

(1) the amount contributed by such employer to any qualified health savings account of any employee who is an eligible individual (as defined in section 223(c)(1)) during the taxable year, or

(2) an amount equal to the product of—

(A) $2500 ($500 if for all months described in subparagraph (B)(i) is family coverage), and

(B) a fraction—

(i) the numerator of which is the number of months that the employee was covered under a high deductible health plan maintained by the employer, and

(ii) the denominator of which is the number of months that the employee is such a coverage.

(b) Coordination with Health Insurance Coverage Tax Credit.—The credit allowed by this section shall not be allowed under section 36A(d).

(c) Coordination with Medical Expense Deduction.—The amount taken into account by the taxpayer in computing the deduction under section 212 is reduced by the amount taken into account by the taxpayer in computing the deduction under this section.

(d) Coordination with Medical Savings Accounts.—Subsection (a) shall not apply with respect to any individual unless the individual is a qualified individual (as defined in section 223(c)(1)) and is not an eligible individual (as defined in section 223(c)(1)) during the taxable year.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.'
SEC. 222. ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) In General.—Subsection (b) of section 35 of such Code (defining eligible coverage month) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR SPOUSE OF INDIVIDUAL ENTITLED TO MEDICARE.—Any month which would be an eligible coverage month with respect to a taxpayer (determined with respect to subsection (b)(2)(A)) shall be an eligible coverage month with respect to any spouse of such taxpayer, provided the spouse has attained age 55 and meets the requirements of clauses (ii), (iii), and (iv) of paragraph (1)(A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 2005.

SEC. 223. CLARIFICATION OF DISCLOSURE RULES.

(a) In General.—Subsection (k) of section 6103 of such Code (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following:

"(18) Disclosure of Certain Return Information for Purposes of Carrying Out a Program for Advance Payment of Credit for Long-Term Care Expenses of Eligible Individuals.—The Secretary may disclose to providers of health insurance, administrators of health plans, or contractors of such providers or administrators, for any certified individual (as defined in section 7527(c)) the taxpayer identity and health insurance member and group numbers of the certified individual (and any qualified family member as defined in section 7527(c)) to the extent the Secretary deems necessary to provide the advance payment of credit for health insurance costs of eligible individuals.

(b) CONFORMING AMENDMENTS.—

(1) Section 6103 of such Code (relating to confidentiality and disclosure of returns and return information) is amended by striking clause (ii) and redesignating clause (iii), respectively, and by inserting after sub-paragraph (B) the following:

"(C) Disclosure of Certain Return Information for Purposes of Carrying Out a Program for Advance Payment of Credit for Long-Term Care Expenses of Eligible Individuals.—The Secretary may disclose to providers of health insurance, administrators of health plans, or contractors of such providers or administrators, for any certified individual (as defined in section 7527(c)) the taxpayer identity and health insurance member and group numbers of the certified individual (and any qualified family member as defined in section 7527(c)) to the extent the Secretary deems necessary to provide the advance payment of credit for health insurance costs of eligible individuals.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 224. APPLICATION OF OPTION TO OFFER STATE-BASED COVERAGE TO ELIGIBLE ALTERNATIVE TAA RECIPIENTS CONSISTENT WITH RULES FOR OTHER ELIGIBLE INDIVIDUALS.

(a) In General.—Section 35(f)(1) of such Code (relating to subsidized coverage) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended by striking clause (ii) and redesignating clause (iii) as clause (ii).

Subtitle D—Long-Term Care Insurance

SEC. 225. SENSE OF THE SENATE CONCERNING LONG-TERM CARE INSURANCE.

It is the sense of the Senate that Congress should take steps to make long-term care more affordable by providing tax incentives for the purchase of long-term care insurance, support for family caregivers, and making necessary public program reforms.
In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

(3) UNUSUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term ‘unused health benefits’ means the excess of—

(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over—

(B) the average premium paid with respect to students covered under such plans.

(4) INCENTIVES AND DISINCENTIVES.—The existence of incentives and disincentives offered to institutions of higher education to expand access to health care coverage for students, including—

(A) an assessment of the types of incentives and disincentives that may be used to encourage or require students to purchase health care coverage; and

(B) whether the proposals targeted to the student population would be effective.

(5) STUDIES.—In conducting the study under subsection (b), the Government Accountability Office shall, at a minimum, examine the following:

(A) IN GENERAL.—The size and characteristics of the insured and uninsured population of undergraduate and graduate students enrolled at an institution of higher education; and

(B) STATISTICAL BREAKDOWN.—The data concerning the uninsured student population collected under subparagraph (A) shall be differentiated by—

(i) the full-time, full-time equivalent, and part-time enrollment status of the students involved;

(ii) the type of institution involved (such as a public, private, non-profit, or community institution);

(iii) the length and type of educational program involved (such as a certificate or diploma program, a 2-year or 4-year degree program, a masters degree program, or a doctoral degree program); and

(iv) the undergraduate and graduate student populations involved.

(C) C Д Э Р А Д О Й Р E S E A R C H.—The data concerning the insured student population collected under subparagraph (A) shall be differentiated by the sources of coverage for such students, including proportion and percentage of such insured students who lose parental (or other) coverage during the course of their enrollment at such institutions and the age at which such coverage is lost.

SEC. 244. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK INSURANCE POOLS.

(a) EXTENSION OF SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of this section for the State’s costs of creation and initial operation of such a pool.

(b) GRANTS FOR QUALIFIED LOSSES.—

(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

(B) offers a choice of two or more coverage options through the pool; and

(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(i) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

(d) ALLOTMENT.—The amounts appropriated under subsection (d)(1)(B)(i) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

(1) AN AMOUNT EQUAL TO 50 PERCENT OF THE AMOUNT AVAILABLE TO EACH STATE FOR THE FISCAL YEAR FROM THE FUND PROVIDED UNDER SUBSECTION (d)(1)(B)(i) FOR THE FISCAL YEAR.

(2) AN AMOUNT EQUAL TO 25 PERCENT OF THE AMOUNT AVAILABLE TO EACH STATE FROM THE FUND PROVIDED UNDER SUBSECTION (d)(1)(B)(i) FOR THE FISCAL YEAR.

(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool, the Secretary shall provide, from the funds appropriated under subsection (d)(1)(B)(i) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

(2) BENEFITS.—A State shall use amounts received under this subsection to provide one or more of the following benefits:

(A) Low-income premium subsidies.

(B) Premium subsidies to individuals who become eligible during a calendar year for premium subsidies.

(C) Assistance with cost-sharing in the form of cost-sharing assistance or other cost-sharing requirements.
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“(C) An expansion or broadening of the pool of individuals eligible for coverage, including eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules; and

“(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

“(E) Increased administrative flexibility.

“(F) The establishment of disease management programs.

“(3) LIMITATION.—In allotting amounts under subsection (b), the Secretary shall ensure that no State receives an amount that exceeds 10 percent of the amount appropriated for the fiscal year involved under subsection (d)(1)(A).

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State High Risk Pool Funding Extension Act (42 U.S.C. 300x–65) relating to a qualified high risk pool; and

“(ii) that is established using reasonable actuarial techniques; and

“(C) that reflects anticipated claims experience and expenses for the coverage involved.

“(B) The term ‘State’ means any of the 50 States and the District of Columbia.

“S. 245. SENSE OF THE SENATE ON AFFORDABLE HEALTH COVERAGE FOR SMALL EMPLOYERS.

“Pursuant to the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

“(d) FUNDING.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

“(A) $15,000,000 for the period of fiscal years 2005 and 2006 to carry out subsection (a); and

“(B) $75,000,000 for each of fiscal years 2005 through 2009, of which—

“(i) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

“(ii) one-third of the amount appropriated for a fiscal year shall be made available for allotments under section 1905(l)(2)(B).

“(2) AVAILABILITY.—Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year.

“(3) REALLOTMENT.—If, on June 30 of each fiscal year, the Secretary determines that all amounts appropriated under paragraph (1) are not allotted, such remaining amounts shall be allotted among States receiving grants under subsection (b) for the fiscal year in amounts determined by the Secretary.

“(4) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

“(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time and in such form as the Secretary shall require.

“(f) DEFINITIONS.—In this section:

“(1) QUALIFIED HIGH RISK POOL.—

“(A) IN GENERAL.—The term ‘qualified high risk pool’ has the meaning given such term in section 274A(c)(2), except that with respect to subparagraph (A) of such section a State may decide, in consultation with the Secretary, to exempt from such definition individuals through—

“(i) a combination of a qualified high risk pool and an acceptable alternative mechanism; or

“(ii) other health insurance coverage described in subparagraph (B).

“(B) HEALTH INSURANCE COVERAGE.—Health insurance coverage described in this subparagraph is individual health insurance coverage—

“(i) that meets the requirements of section 274A;

“(ii) that is subject to limits on the rates charged to individuals; and

“(iii) that is available to all individuals eligible for coverage described in this title who are not able to participate in a qualified high risk pool; and

“(iv) the defined rate limit of which does not exceed the limit allowed for a qualified risk pool that is otherwise eligible to receive assistance under a grant under this section.

“(C) the prohibition described in subparagraph (B), a State may provide for the offering of health insurance coverage that provides first dollar coverage for comprehensive medical, hospital and surgical coverage, if the limits on rates for such coverage do not exceed 125 percent of the rates described in subparagraph (B).

“(D) STANDARD RISK RATE.—The term ‘standard risk rate’ means a rate—

“(i) that is applied to the high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

“(ii) that is established using reasonable actuarial techniques; and

“(E) Increased benefits.

“(1) IN GENERAL.—The Secretary shall—

“(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

“(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

“(2) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—

“(A) IN GENERAL.—The Secretary shall—

“(i) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

“(ii) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

“(B) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

“(C) DEFINITIONS.—In this section:

“(i) ELIGIBLE ENTITY.—The term ‘eligible entity’ means any of the following:

“(A) A State or local government.

“(B) A Federal health safety net organization.

“(C) A national, local, or community-based public or nonprofit private organization.

“(D) A faith-based or community-based entity, or a consortium of such entities, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1555 of the Public Health Service Act (42 U.S.C. 300x–22) and to the extent that a grant awarded to such an entity is consistent with the requirements of section 1555 of the Public Health Service Act (42 U.S.C. 300x–22).

“(E) An elementary or secondary school.

“(F) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term ‘Federal health safety net organization’ means—

“(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider; or

“(B) a Federally-qualified health center (as defined in section 330(c)(2)(B));

“(C) a hospital defined as a disproportionate share hospital for purposes of section 1923; or

“(D) a covered entity described in section 330D(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

“(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 7250).
SEC. 301. PURPOSE.

It is the purpose of this subtitle to enhance the quality of life of residents of high need areas by increasing their access to the preventive and primary healthcare services provided by community health centers and rural health centers.

SEC. 302. HIGH NEED COMMUNITY HEALTH CENTERS.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(2) by inserting after subsection (j), the following:

"(E) Section 1902(e)(13) (relating to the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2106, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by adding at the end the following:

"(7) by redesigning subsections (k) through (r) as subsections (i) through (s), respectively;

"(l) in subsection (l) (as so redesignated), by inserting after subsection (b), the following:

"(A) by inserting after subsection (k), the following:

"(B) Nothing in paragraph (A) shall be construed—

"(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI.

"(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

SEC. 321. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

(a) ELIGIBILITY FOR GRANTS UNDER PARA.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:
"Subpart XI—Promotion of Integrated Health Care Systems Serving Medically Under-served Populations"

"SEC. 340I. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS"

"(a) DEFINITIONS.—For purposes of this section:

"(1) QUALIFIED INTEGRATED HEALTH CARE SYSTEM.—"Qualiﬁed integrated health care system’ means an integrated health care system that—

"(A) has a demonstrated capacity and commitment to provide a full range of primary, specialty, and hospital care to a medically underserved population in both inpatient and outpatient settings, as appropriate;

"(B) is organized to provide such care in a coordinated fashion;

"(C) operates one or more integrated health care centers meeting the requirements of section 340I;

"(D) meets the requirements of subsection (c)(3); and

"(E) agrees to use any funds received under this section to supplement and not to supplant amounts received from other sources for the provision of such care.

"(2) MEDICALLY UNDERSERVED POPULATION.—The term ‘medically underserved population’ has the meaning given such term in section 330(b)(3).

"(b) OUTLINES OF GRANTS.—

"(1) AUTHORITY.—The Secretary may make grants to private nonprofit entities for the costs of operation of qualiﬁed integrated health care systems that provide primary, specialty, and hospital care to medically underserved populations.

"(2) (A) IN GENERAL.—The amount of any grant made in any ﬁscal year under paragraph (1) to an integrated health care system shall be determined by the Secretary (taking into account the full range of care, including specialty services, provided by the system), but may not exceed the amount by which the costs of operation of the system in such ﬁscal year exceed the total of—

"(i) State, local, and other operational funding provided to the system; and

"(ii) the fees, premiums, and third-party reimbursements which the system may reasonably be expected to receive for its operations.

"(B) PAYMENTS.—Payments under grants pursuant to paragraph (1) shall be made in advance or by way of reimbursement and in such installment basis that such system’s operational funding necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not speciﬁcally prohibited under this section if such use furthers the objectives of the project.

"(c) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—

"(A) IN GENERAL.—An application for a grant under subsection (b)(1) for an integrated health care system shall include—

"(i) a demonstration by the applicant that the area or population group to be served by the applicant has a shortage of personal health services; and

"(ii) a demonstration that the health care system will be located so that it will provide services to the greatest number of individuals residing in such area or included in such population group; and

"(III) a demonstration that the health care system will be located so that it will provide services to the greatest number of individuals residing in such area or included in such population group; and

"(B) DEMONSTRATIONS.—A demonstration shall be made under clauses (ii) or (iii) of subparagraph (A) on the basis of the criteria prescribed by the Secretary in section 330(b)(3) or on the basis of any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the system has a shortage of personal health services.

"(C) CONDITION OF APPROVAL.—In considering an application for a grant under subsection (b)(1), the Secretary may require as a condition to the approval of such application an assurance that any integrated health care center operated by the applicant will provide any required primary health services and any additional health services (as deﬁned in section 340I) that the Secretary deems necessary to meet speciﬁc health needs of the area to be served by the applicant. Such a demonstration shall be made in writing and a copy shall be provided to the applicant.

"(D) REQUIREMENTS.—The Secretary shall approve an application for a grant under subsection (b)(1) if the Secretary determines that the entity for which the application is submitted is an integrated health care system (within the meaning of subsection (a)) and that—

"(i) the primary, specialty, and hospital care provided by the system will be available and accessible in the service area of the system promptly, as appropriate, and in a manner which assures continuity;

"(ii) the system is participating (or will participate) in a community consensus of safety net providers serving such area (unless other such safety net providers do not exist in a community, decline or refuse to participate, or place unreasonable conditions on their participation);

"(iii) if the system is a system that provides services to individuals who are eligible for medical assistance under title XIX of the Social Security Act, the individual is who is eligible for assistance under title XXI of such Act;

"(E) the system—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs and to ensure that any additional health services (as deﬁned in section 340I) that the Secretary deems necessary to meet speciﬁc health needs of the area to be served by the system have been fulﬁlled; and

"(ii) shall be provided to the applicant.

"(f) RECORDS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2010.

"(2) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriations committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relationship between access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.
establish and maintain such records as the Secretary shall require.

(2) AVAILABILITY.—Each entity which is required to establish and maintain records under subsection (a) shall make such records, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction on or off the premises of such entity upon a reasonable request therefore.

(3) AVAILABILITY OF RECORDS.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

(A) the entity’s implementation of the guidelines established by the Secretary respecting cost accounting;

(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary; and

(C) the collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance funds and other payments to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

(4) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required under paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

(5) AUDITS.—(A) IN GENERAL.—Each entity which receives a grant under this section shall establish and maintain in such records as the Secretary shall by regulation require to facilitate the audit required under paragraph (1), the Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

(B) AUDITORS.—Each entity which receives a grant under this section shall be required to establish and maintain such records as the Secretary shall require under paragraph (4).

(C) AUDIT REQUIREMENTS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall require under paragraph (4).

(D) AUDIT REPORT.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall require under paragraph (4).

(E) AUDIT FUNDING.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall require under paragraph (4).

(6) DETERMINATION.—The term ‘integrated health center’ means an entity—

(A) receiving a grant under section 340I of the Public Health Service Act, when furnished to an individual as an outpatient of an integrated health center, and for this purpose, any reference to a rural health clinic, an ambulatory care center, or a laboratory included in section 1862(b)(20) of the Social Security Act (as defined in section 1862(b)(20) of the Social Security Act) is deemed to refer to an integrated health center; and

(B) receiving a grant under section 340I of the Public Health Service Act or a contract or cooperative arrangement—

(i) serving, either through the staff and suppliers of the center, a disproportionate share of low-income individuals; and

(ii) having under its management, a Medicare Health Care Improvement Program and the Comprehensive Health Reform Act of 2010 (Public Law 111–192).
(I) by striking “subsection (aa)(5)” each place it appears and inserting “subsection (aa)(7)”;

(II) by striking “subsection (aa)(6)” and inserting “subsection (aa)(8)”;

(D) Section 1901(d)(3)(B) of the Social Security Act (42 U.S.C. 1396d(d)(3)(B)) is amended by striking “subsection (aa)(3)” and inserting “subsection (aa)(7)”;

(4) RECOGNITION UNDER MEDICAID.—

(a) by striking “and” and inserting “,”;

(b) by striking “(C)” and inserting “(C)”; and

(c) by inserting “,” and “(D) integrated health center services (as defined in subsection (1)(3)(A)) and any other ambulatory services offered by the integrated health center which are otherwise included in the plan.” after “included in the plan” the second place it appears.

(2) DEFINITIONS.—Section 1901(b) of such Act (42 U.S.C. 1396a(b)) is amended by adding at the end the following:

“(3)(A) The term ‘integrated health center services’ means services of the type described in paragraph (1) of section 1861(aa) when furnished to an individual as a patient of an integrated health center and, for this purpose, any reference to a rural health clinic shall be deemed to a reference to an integrated health center.

“(B) The term ‘integrated health center’ means a center that is operated by a qualified integrated health care system that—

“(i) is receiving a grant under section 340F of the Public Health Service Act; or

“(ii) is determined by the Secretary, based on the recommendations of the Administrator of the Medicare & Medicaid Services, to meet the requirements for receiving such a grant.”.

(3) PAYMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (15), by inserting “and for services described in clause (D) of section 1905(a)(2) in accordance with the provisions of subsection (cc)” after “subsection (bb);” and

(B) by adding at the end the following:

“(cc) PAYMENT FOR SERVICES PROVIDED BY INTEGRATED HEALTH CENTERS.—

“(1) IN GENERAL.—Beginning with fiscal year 2006 with respect to services furnished on or after January 1, 2006, and each succeeding fiscal year, the State plan shall provide for payment for services in an amount (calculated on a per visit basis) that is equal to the amount calculated for such services under this subsection for the preceding fiscal year—

“(A) increased by the percentage increase in the CPI-U (as defined in section 1822(i)(5)) for that fiscal year; and

“(B) adjusted to take into account any increase or decrease in the scope of such services furnished by the center during that fiscal year.

“(4) ESTABLISHMENT OF INITIAL YEAR PAYMENT AMOUNT FOR NEW CENTERS.—In any case in which an entity first qualifies as an integrated health center after fiscal year 2006, the State plan shall provide for payment for services described in section 1905(a)(2)(D) in an amount which in the center so qualifies in an amount (calculated on a per visit basis) that is equal to 100 percent of the costs of furnishing such services during such fiscal year based on the rates established under this subsection for the fiscal year for other such centers located in the same or adjacent area with a similar case load or, in the absence of such a center, in accordance with the regulations and methodology referred to in paragraph (2) or based on such other tests of reasonableness as the Secretary may specify for each fiscal year following the fiscal year in which the entity first qualifies as an integrated health center, the State plan shall provide for payment in an amount calculated in accordance with paragraph (3).

“(5) ADMINISTRATION IN THE CASE OF MANAGED CARE.—

“(A) IN GENERAL.—In the case of services furnished by an integrated health center pursuant to a contract between the center and a managed care entity (as defined in section 1881(aa)), the State plan shall provide for payment to the State and the integrated health center, but in no case less frequently than every 4 months.

“(B) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, if the Secretary determines that—

“(i) the establishment of a sliding fee scale for low-income patients.''

“(6) EFFECTIVE DATE.—The amendments made by section 1321(b) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended by adding at the end the following:

“(e) MISCELLANEOUS PROVISIONS.—

“(1) RULE OF CONSTRUCTION WITH RESPECT TO RURAL HEALTH CLINICS.—

“(A) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to those primary health care services available in that rural health clinic.

“(B) ASSURANCES.—In order for a rural health clinic to receive funds under this subsection through a community health center under paragraph (1), such rural health clinic shall establish policies to ensure—

“(i) nondiscrimination based upon the ability of a patient to pay; and

“(ii) the establishment of a sliding fee scale for low-income patients.”

SEC. 332. IMPROVEMENTS TO SECTION 340B PROGRAM.

(a) ELIMINATION OF GROUP PURCHASING PROGRAM FOR CERTIFIED HOSPITALS.—Section 340B(b)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) by inserting “and adding ‘and’ at the end;” in clause (i),

(2) by striking “and” and inserting a period; and

(3) by striking clause (ii).

(b) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by adding at the end the following:

“(e) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Nothing in this section shall be construed as prohibiting a covered entity from entering into contracts with more than one pharmacy for the provision of covered drugs, including a contract that—

“(1) supplements the use of an in-house pharmacy arrangement; or

“(2) requires the approval of the Secretary.’’.
SEC. 333. FORBEARANCE FOR STUDENT LOANS FOR PHYSICIANS PROVIDING SERVICES IN FREE CLINICS.

(a) In General.—Section 422(c)(3)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078c(3)(A)) is amended—

(1) in clause (1)—

(A) in subclause (III), by striking “or” at the end;

(B) in subclause (V), by adding “or” at the end; and

(C) by adding at the end the following:

“(V) is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act;”

(b) PERKINS PROGRAM.—Section 464(e) of the Higher Education Act of 1965 (20 U.S.C. 1093d(e)) is amended—

(1) in paragraph (1), by striking “or” at the end;

(2) in paragraph (2), by striking the period and inserting “; or”;

and

(3) by adding at the end the following:

“(3) the borrower is volunteering without pay for at least 80 hours per month at a free clinic as defined under section 224 of the Public Health Service Act;”

SEC. 334. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO LIABILITY.

Section 333 of the Public Health Service Act (42 U.S.C. 228) is amended—

(1) in subsection (g)(1)—

(A) in the first sentence, by striking “or employee” and inserting “employee, or (subject to subsection (k)(4)) volunteer practitioner;” and

(B) in the second sentence, by inserting “and subsection (k)(4)” after “subject to paragraph (5)”;

and

(2) by adding at the end the following:

“(4)(A) Subsections (g) through (m) apply with respect to practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to volunteer practitioners.

(B) For purposes of subsections (g) through (m), the term ‘volunteer practitioner’ means a practitioner who, with respect to an entity described in subsection (d)(4), meets the following conditions:

(i) The practitioner is a licensed physician or a licensed clinical psychologist.

(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).

(2) in subsection (k), by adding at the end the following:

“(4)(A) Subsections (g) through (m) apply with respect to volunteer practitioners beginning with the first fiscal year for which an appropriations Act provides that amounts in the fund under paragraph (2) are available with respect to volunteer practitioners.

(B) For purposes of subsections (g) through (m), the term ‘volunteer practitioner’ means a practitioner who, with respect to an entity described in subsection (d)(4), meets the following conditions:

(i) The practitioner is a licensed physician or a licensed clinical psychologist.

(ii) At the request of such entity, the practitioner provides services to patients of the entity, at a site at which the entity operates or at a site designated by the entity. The services provided to the patients by the practitioner is not a factor with respect to meeting conditions under this subparagraph.

(iii) The practitioner does not for the provision of such services receive any compensation from such patients, from the entity, or from third-party payors (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).

(3) in subsection (o)(2), by striking clause (1) and inserting the following:

“(1) The health care practitioner may provide the services involved as an employee of the free clinic, or may receive repayment from the free clinic only for reasonable expenses incurred by the health care practitioner in the provision of the services to the individual.”;

and

(4) in each of subsections (g), (i), (j), (k), (l), and (m), by striking “employee, or contractor” each place such term appears and inserting “employee, volunteer practitioner, or contractor;”

SEC. 335. SENSE OF THE SENATE CONCERNING HEALTH DISPARITIES.

It is the sense of the Senate that additional measures are needed to reduce or eliminate disparities in health care related to race, ethnicity, socioeconomic status, and geography that affect access to quality health care.

Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. COCHRAN): S. 1508. A bill to require Senate candidates to file designations, statements, and reports in electronic form; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, today I will once again introduce with the Senator from Arizona, Mr. MCCAIN, a bill to bring Senate campaigns into the 21st century by requiring that Senate candidates file their campaign finance disclosure reports electronically and that those reports be promptly made available to the public. We are very proud to be joined in our effort in this Congress by the distinguished senior Senator from Mississippi, Mr. COCHRAN. This step is long overdue, and I hope the Senate will act quickly on this legislation.

A series of reports by the Campaign Finance Institute have highlighted the anomaly in the election laws that makes it nearly impossible for the public to get access to Senate campaign finance reports while most other reports are electronically available within 24 hours of their filing with the Federal Election Commission (FEC). The Campaign Finance Institute asks a rhetorical question: ‘’What makes the Senate so special that it exempts itself from a key requirement that campaign finance disclosure that applies to everyone else including candidates for the House of Representatives and Political Action Committees?’’ The answer, of course, is nothing.

The United States Senate is special in many ways. I am sure to serve here. But there is no justification for not making our campaign finance information as readily accessible to the public as the information filed by House candidates or others.

My bill amends the section of the election laws dealing with electronic filing to require reports filed with the Secretary of the Senate to be filed with the FEC within 24 hours. The FEC is required to make available on the Internet within 24 hours any filing it receives electronically. So if this bill is enacted, electronic versions of Senate campaign finance reports should be available to the public within 48 hours of their filing. That will be a vast improvement over the current situation, which, according to the Campaign Finance Institute asked a rhetorical question: ‘’What makes the Senate so special that it exempts itself from a key requirement that campaign finance disclosure that applies to everyone else including candidates for the House of Representatives and Political Action Committees?’’ The answer, of course, is nothing.

The current filing system also means that the final disclosure reports of candidates for the House of Representatives are available to the public within 48 hours of their filing. That will be a vast improvement over the current situation, which, according to the Campaign Finance Institute asked a rhetorical question: ‘’What makes the Senate so special that it exempts itself from a key requirement that campaign finance disclosure that applies to everyone else including candidates for the House of Representatives and Political Action Committees?’’ The answer, of course, is nothing.

The current filing system also means that the detailed coding that the FEC does, which allows for more sophisticated searches and analysis, is computed within computer images of paper-filed copies of reports, and involves a completely wasteful expenditure of hundreds of thousands of dollars to re-enter information into databases that almost every campaign has available in electronic form.

The current filing system also means that the detailed coding that the FEC does, which allows for more sophisticated searches and analysis, is computed with computer images of paper-filed copies of reports, and involves a completely wasteful expenditure of hundreds of thousands of dollars to re-enter information into databases that almost every campaign has available in electronic form.
our reports subject to the same prompt, public scrutiny as those filed by PACs and candidates for the other body.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. DURBIN. Mr. President, today I am pleased to submit a resolution expressing the sense of the Congress that a commemorative United States postage stamp should be issued to promote awareness of Down syndrome and the Citizens’ Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued. I am honored to be joined by Senator CORNYN in this effort.

Down syndrome is a genetic condition usually caused by an error in cell division called non-disjunction. Regardless of the type of Down syndrome a person may have, all people with Down syndrome have an extra, critical portion of the number 21 chromosome present in all, or some, of their cells. This additional genetic material alters the course of development and causes the characteristics associated with the syndrome.

Down syndrome affects people of all races and economic levels. It is the most frequently occurring chromosomal abnormality, occurring once out of every 800 to 1,000 births. In the United States, more than 330,000 people have Down syndrome. Nearly 5,000 children with Down syndrome are born each year. Because the mortality rate connected with Down syndrome is decreasing, the number of individuals with Down syndrome in our society is increasing. Some experts predict that the prevalence of individuals with Down syndrome will double in the next 10 years, further increasing the need for public acceptance and education about this genetic condition.

I encourage my colleagues to co-sponsor this meaningful resolution and assist our efforts to convince the Citizens’ Stamp Advisory Committee to recommend the issuance of a postage stamp promoting public awareness of Down syndrome.

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

S. 1508

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 “Senate Campaign Disclosure Parity Act.”

SEC. 2. SENATE CANDIDATES REQUIRED TO FILE ELECTION REPORTS IN ELECTRONIC FORM.

(a) In General.—Section 304(a)(11)(D) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(D)) is amended to read as follows:

“(D) As used in this paragraph, the terms ‘designation’, ‘statement’, or ‘report’ mean a designation, statement or report, respectively, which—

(i) is required by this Act to be filed with the Commission; or

(ii) is required under section 302(g) to be filed with the Secretary of the Senate and forwarded by the Secretary to the Commission.”

(b) CONFORMING AMENDMENTS.—

(1) Section 302(g)(2) of such Act (2 U.S.C. 432(g)(2)) is amended by inserting “or 1 working day in the case of a designation, statement, or report filed electronically” after “2 working days.”

(2) Section 304(a)(11)(B) of such Act (2 U.S.C. 434(a)(11)(B)) is amended by inserting “or filed with the Secretary of the Senate under section 302(g) and forwarded to the Commission” for “forwarded to the Commission.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any designation, statement, or report filed after the date of enactment of this Act.

Mr. MCCAIN. Mr. President, once again, I am proud to join my friend Senator FEINGOLD as a co-sponsor of this meaningful resolution and press the sense of the Congress that the Senate should recommend to the Postmaster General that such a stamp be issued to promote awareness of Down syndrome.

The additional genetic material in Down syndrome occurs when a cell divides incorrectly and two copies of chromosome 21 are inherited instead of one. One copy of chromosome 21 is inherited from each parent. Down syndrome occurs in all, or some, of their cells.

Down syndrome is the most common genetic cause of intellectual disability, affecting about 1 in 800 infants born in the United States. About 40% of babies born with Down syndrome die in infancy. The risk of having a child with Down syndrome increases with the mother’s age. Women older than 35 are more likely to have a baby with Down syndrome than younger women.

Down syndrome is not a disease, and there is no cure for it. Most people with Down syndrome are born healthy and may live to a normal life span. Many people with Down syndrome lead active, fulfilling lives as parents, workers, and members of their communities.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

S. 1509. A bill to amend the Lacey Act Amendments of 1982 to prohibit the handling, use, or sale of non-human primates to the definition of prohibited wildlife species; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the “Captive Pri- mate Safety Act of 2005.” I am joined by Senators CHAFEE, LIEBERMAN, and MR. LAUTENBERG.

Non-human primates in homes and communities pose serious risks to public health and safety. An attack in March of this year on a California man by chimpanzees who escaped their confinement is only one example of how dangerous these animals can be. A 13-year-old girl was attacked in West Virginia in May and on July 12th a 20-year-old man was attacked by two monkeys in Ohio.

Not only can non-human primates cause serious injury, they can spread potentially life-threatening illnesses. Since 1975, Federal regulations have forbidden the import of monkeys and other non-human primates as pets due to Centers for Disease Control (CDC) concerns about diseases such as
monkeypox, yellow fever, Marburg/Ebola disease, tuberculosis, and other diseases not yet known or recognized.

Nevertheless, there is still a vigorous trade in these animals, with as many as 15,000 primates held in private hands across the nation. This trade, to some extent, is illegal. State laws that seek to regulate primates as pets are undermined by the interstate commerce of these animals. Federal legislation is needed to better support safety regulations of the CDC and the states.

Infant primates may seem cute and cooperative, but they inevitably grow larger, stronger, and more aggressive. They may become many times stronger than humans and extremely difficult to handle. They can inflict serious harm by biting and scratching. Removing their teeth, as many pet owners do, is cruel and not a safeguard against injury. About 100 people reportedly have been injured by non-human primates over the past ten years, including 29 children.

This legislation amends the Lacey Act to prohibit transporting monkeys, great apes, (including chimpanzees and orangutans), carnivores, lemurs, and other non-human primates across state lines for the pet trade, much like the Captive Wildlife Safety Act, which passed unanimously in 2003, did for tigers and other big cats.

The legislation is narrowly crafted to get at the heart of the dangerous problem of keeping primates as pets. It has no impact on the trade or transportation of animals for federally licensed facilities, zoos, or accredited wildlife sanctuaries. It will not affect zoos or research facilities. Federal licenses or registration are required for all commercial activity, such as breeders, dealers, research institutions, exhibitors, and transporters, therefore, they are exempt. The prohibitions in the Lacey Act only apply in other situations, that is, in the pet trade.

This legislation is supported by more than 40 groups, including the Humane Society of the United States, the American Veterinary Medical Association, the American Zoo and Aquarium Association, the Humane Society of the United States, the American Veterinary Medical Association, and the International Fund for Animal Welfare.

I urge my colleagues to support this legislation and will work our partners in the House to enact the Captives Primate Safety Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

SEC. 2. ADDITION OF NON-HUMAN PRIMATES TO THE DEFINITION OF PROHIBITED WILDLIFE SPECIES.

The definition of prohibited wildlife species in the Lacey Act Amendments of 1981 (16 U.S.C. 3371(g)) is amended by inserting “or any non-human primate” before the period at the end.

By Mr. SARBANES (for himself, Mrs. MURKOWSKI, Mr. BIDEN, Mrs. CLINTON, Ms. MURkowski, Mrs. MURRAY, Mr. WyDEN, Mr. LAUTenberg, Mr. SCHUMER, and Mr. DURBIN):

S. 1512. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated, to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am once again introducing legislation together with Senators MIKULSKI, BIDEN, CLINTON, MURKOWSKI, MURRAY, WyDEN, LAUTenberg, SCHUMER, and DURBIN which would grant a Federal charter to the Korean War Veterans Association, Incorporated. This legislation, which has passed the Senate in each of the past three Congresses, recognizes the 5.7 million Americans who fought and served during the Korean War and honors their sacrifices on behalf of freedom and the principles and ideals of our Nation.

Today marks the 52nd Anniversary of the signing of the Military Armistice Agreement which officially ended armed hostilities on the Korean Peninsula. By the time the fighting ended, 8,177 Americans were listed as missing or prisoners of war some of whom are still missing and more than 36,000 Americans have died. One hundred and thirty-one Korean War Veterans were awarded the Nation’s highest commendation for combat bravery, the Medal of Honor. Ninety-four of these soldiers gave their lives in the process.

When the North Korea People’s Army swept across the 38th Parallel to occupy Seoul, South Korea in June of 1950, members of our Armed Forces including many from the State of Maryland immediately answered the call of the U.N. to repel this forceful invasion. Without hesitation, these soldiers traveled to an unfamiliar corner of the world to join an unprecedented multinational force comprised of 22 countries, and risked their lives to protect freedom. The Americans who led this international effort were true patriots who fought with remarkable courage. In battles such as Pork Chop Hill, the Inchon Landing, and the frozen Chosin Reservoir, which was fought in temperatures as low as fifty-seven degrees below zero, they faced some of the most brutal combat in history.

The sacrifices made by these brave individuals are well described by an engraving on the Korean War Veterans Memorial, which reads: “Freedom is not Free.” Freedom has cost this Nation. We owe our Korean War Veterans a debt of gratitude. Granting this Federal charter—at no cost to the government—is a small expression of appreciation that we as a Nation can offer to these men and women, one which will enable them to work as a unified front to ensure that the “Forgotten War” is forgotten no more.

The Korean War Veterans Association was originally incorporated on June 25, 1955. Since its first annual reunion and memorial service in Arlington, VA, where its members decided to develop a national focus and strong commitment to service, the association has grown substantially to a membership of over 37,000. A Federal charter would allow the Association to continue to grow its mission and further its charitable and benevolent causes. Specifically, it will afford the Korean War Veterans Association the same status as other major veterans’ organizations and allow it to participate as part of select committees with other congressionally chartered veterans and military groups. A Federal charter will also accelerate the Association’s “accreditation” with the Department of Veterans Affairs which will enable its members to assist in processing veterans’ claims.

The Korean War Veterans have asked for very little in return for their service, they have asked for recognition. I urge my colleagues to join me in supporting this legislation and ask that the text of the measure be printed in the RECORD.

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

S. 1512

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

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

“CHAPTER 1201—[RESERVED];”

and

(2) by inserting after chapter 1103 the following new chapter:

“CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

“Sec.

120101. Organization.

120102. Purposes.

120103. Membership.

120104. Governing body.

120105. Powers.

120106. Restrictions.

120107. Tax-exempt status required as condition of charter.

120108. Records and inspection.

120109. Service of process.

120110. Liability for acts of officers and agents.

120111. Annual report.

120112. Definition.

“120101. Organization.—Korean War Veterans Association, Incorporated (in this chapter, the ‘corporation’), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions
of this chapter, the charter granted by subsection (a) expires.

§ 120102. Purposes

The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War and the rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea and their families.

(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

§ 120103. Membership

Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

§ 120104. Governing body

(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

§ 120105. Powers

The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

§ 120106. Restrictions

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

(d) POLICY OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

(e) NON-PROFIT STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

§ 120107. Tax-exempt status required as condition of charter

If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall thereby terminate.

§ 120108. Records and inspection

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

§ 120109. Service of process

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

§ 120110. Liability for acts of officers and agents

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

§ 120111. Annual report

The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 1004 of this title. The report may not be printed as a public document.

§ 120112. Definition

For purposes of this chapter, the term ‘State’ includes the District of Columbia and the territories and possessions of the United States.

(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

(c) CORPORATE STATUS.—The corporation shall maintain its status as a corporation in-
alds, and eyeglasses. The code also allows the costs of drugs, but only prescription drugs and insulin; OTCs are not included in the deduction currently. This legislation recognizes that OTC medicines may be a big cost for some individuals and families and that tax deductions of prescription and non-prescription drugs should be equal in this area.

The medical expense deduction is particularly helpful for low income taxpayers with high health care expenses. In 2000, the lowest income brackets use the medical expense deduction more frequently than higher income earners. According to the IRS website, 2002 million taxpayers with incomes of $20,000 or less used the medical expense deduction in 2001. This bill would help low income people with high medical expenses by allowing them to deduct the cost of OTCs.

This legislation would also provide much needed fiscal relief for many seniors, nurses, and physicians. The Senate Department of Labor statistics, seniors purchase more OTC drugs than any other age group. This bill would help those elderly Floridians, as well as all elderly Americans, who use OTCs and take the medical expense deduction.

Many Americans are currently paying extraordinary prices for their medications. It is time for Congress to help make medicine more affordable. One thing we can do is to make sure that as more drugs become available without prescriptions that their costs can still be included in tax-deductible health care expenses. If we can do that, we will have done a great deal.

Mr. President, I request unanimous consent that my statement be included in the Record.

By Mr. INOUYE:

S. 1515. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the committee on Finance.

Mr. INOUYE. Mr. President, today I introduce the ‘Medicaid Advanced Practice Nurse and Physician Assistants Access Act of 2005.’ This legislation would change Federal law to expand fee-for-service Medicaid to include direct payment for services provided by all nurse practitioners, clinical nurse specialists, and physician assistants. It would ensure all nurse practitioners, certified nurse midwives, and physician assistants are recognized as primary care case managers, and require Medicaid panels to include advanced practice nurses on their managed care panels.

Advanced practice nurses are registered nurses who have attained additional expertise in the clinical management of health conditions. Typically, an advanced practice nurse holds a master’s degree with didactic and clinical preparation beyond that of the registered nurse. They are employed in clinics, hospitals, and private practices. While there are many titles given to these advanced practice nurses, such as pediatric nurse practitioners, family nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists, our current Medicaid legislation to the multiple specialties and titles of these advanced practitioners, nor has it recognized the critical role physician assistants play in the delivery of primary care.

I have been a long-time advocate of advanced practice nurses and their ability to extend health care services to our most rural and underserved communities. They have improved access to health care in Hawaii and throughout the United States by their willingness to practice in what some providers might see as undesirable locations—the extremely rural, frontier, or urban areas. This legislation ensures they are recognized and reimbursed for providing the necessary health care services through the need, and it gives those patients the choice of selecting advanced practice nurses and physician assistants as their primary care providers.

In 1986, the Congressional Office of Technology Assessment released a report requested by the Senate Appropriations Committee. This report, “Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis,” found the quality of nurse practitioner care to be as good or better than care provided by physicians. By passing this legislation, we honor the commitment of these front-line health care professionals by ensuring they receive the respect and reimbursement they have earned. I ask unanimous consent that the text of this bill be printed in the Record.

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

S. 1515

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 ‘‘Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2005’’.

SEC. 2. IMPROVED ACCESS TO SERVICES OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS UNDER STATE MEDICAID PROGRAMS. (a) PRIMARY CARE CASE MANAGEMENT.—Section 1905(t)(2) of the Social Security Act (42 U.S.C. 1396t(k)(2)) is amended by striking subparagraph (B) and inserting the following:

“(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)),

“(C) A certified nurse-midwife (as defined in section 1861(bb)),

“(D) A physician assistant (as defined in section 1861(aa)(5)(A));”,.

(b) FEE-FOR-SERVICE PROGRAM.—Section 1906(a)(21) of such Act (42 U.S.C. 1396a(a)(21)) is amended—

(1) by inserting ‘‘(A)’’ after ‘‘(Z)’’;

(2) by striking ‘‘services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner’’ (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner”;

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with Senator DEWINE which will close a loophole in the Indian Gaming Regulatory Act. By clarifying this statute, a State’s right to prevent unwanted forms of gambling in the State will be protected.

The current laws governing Indian gambling are ambiguous when outlined which types of gambling are allowed. The provision in the Indian Gaming Regulatory Act, IGRA, that determines permitted gambling activities defines casino-style gambling as Class III, including slot machines, blackjack, craps, roulette, some lotteries and pari-mutuel racing. This class of gambling activity on Indian lands only can be, and I quote, ‘‘located in a State that permits such gaming for any purpose by any person, organized group or partnership.”

It is unclear whether this means that the statutory language should be read and applied in a class-wide or categorical sense or whether it should be read and applied on an activity-by-activity basis.

District and circuit Federal courts have both considered this question. In 1991, a District Court in Wisconsin ruled that if a State permits one type of class III gaming, then all other types of class III gaming can be conducted in the State under IGRA.

On the other hand, in 1993 and 1994, the Eighth and Ninth Circuit Courts of Appeals construed the language of the
IGRA to mean that class III gaming in a particular State is limited under the Federal law to the specific activities that are permitted under that State’s laws.

In July 2005, the Tenth Circuit Court of Appeals ruled that tribally owned and operated casinos continue to be in violation of the Indian Gaming Regulatory Act. In this instance, the tribe argued that it is entitled to offer full Class III gaming because the State allows casino-style activities for social or nonprofit purposes.

In Ohio, gambling for commercial purposes is prohibited by the State Constitution. However, pari-mutuel racing and lottery are both permitted as well as charitable gambling on a very limited and controlled basis.

The bill I am introducing today will clarify that Class III gaming under IGRA applies only on an activity-by-activity basis, rather than in a class-wide sense.

I have been a long-time supporter of a ban on casino gambling and have taken steps to keep casino gambling out of Ohio. As Mayor of Cleveland and as Governor of Ohio, I worked to inform Ohioans of the negative impact casino gambling has on our families and our economy, leading to gambling’s defeat at the polls.

These initiatives proved to be successful and have kept legalized gambling under control in Ohio.

My introduction of this legislation comes at a time when the progress we’ve made is in danger of being compromised. Across the country, Indian tribes are looking to expand gambling and even looking at a State like Ohio where gambling is illegal. The distinction in my bill is necessary to help control the explosive growth of tribal casino nationwide.

I call on my colleagues to join us in cosponsoring this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1518

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

SEC. 1. Class III Gaming Activities.
(a) Definitions.—Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended by adding at the end the following:

"(II) subject to subparagraph (B), located in a State that expressly permits the activity for any commercial purpose by any person, organization, or entity in the constitution of the State or any law of the State; and

"(III) conducted in accordance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect on the date on which the ordinance or resolution relating to the activity is submitted to the Chairman under paragraph (2).

"(B) Certain States.—A class III gaming activity conducted under subparagraph (A)(ii) shall be conducted in accordance with the applicable laws (including regulations) of the State or States, as the case may be, except in a State that expressly prohibits the activity conducted under subparagraph (A)(ii) for any purpose, including restrictions on the timing or frequency of the gaming activity."

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 215—Designating December 2005 as "National Pear Month"

Mr. SMITH (for himself, Mr. WYDEN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mrs. BOXER) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 215

Whereas pear trees imported to Oregon, Washington, and California by pioneers in the 1800s thrived in the unique agricultural and geographic region in the United States to observe the month with approval and appreciation and for other purposes:

Whereas the Pacific States form the only geographic region in the United States with the ideal combination of climate and geography needed to produce high-quality, delicious summer and winter pear varieties;

Whereas the rich pear-growing region stretches from the Central Valley of California, through the Rogue River Valley in southern Oregon, and to the banks of the Columbia River in Oregon and Washington;

Whereas pears are a high-quality source of vitamin C, potassium, and dietary fiber, have low cholesterol, are low in calories, and complement an active lifestyle;

Whereas Oregon, Washington, and California are world-renowned for providing beautiful and delicious pears;

Whereas the United States does not have an official pear month; and

Whereas designating December 2005 as "National Pear Month" would be a suitable recognition of the affection the people of the United States hold for pears and the healthful benefits of pears: Now, therefore, be it

Resolved, That the Senate—
(1) designates December 2005 as National Pear Month; and
(2) encourages the people of the United States to observe the month with appropriate ceremonies, activities, and consumption.

SENATE RESOLUTION 216—Expressing Gratitude and Appreciation to the Men and Women of the United States Armed Forces Who Served in World War II, Commending Their Acts of Heroism Displayed by Those Servicemembers, and Recognizing the "Greatest Generation Homecoming Weekend" to Be Held in Pittsburgh, Pennsylvania

Mr. SANTORUM (for himself and Mr. SPECTER) submitted the following resolution, which was considered and agreed to:

S. Res. 216

Whereas World War II began on September 1, 1939, when Nazi Germany invaded Poland without a declaration of war and then moved, following the surrender of Poland, to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the premeditated invasion of Poland by Japan on the Pacific front, the United States declared war on Japan and entered World War II on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of the desire of Adolf Hitler and the Nazi regime for world conquest, the servicemen and women of the United States Armed Forces known as the "Greatest Generation" assumed the task of freeing the world of Nazism, fascism, and tyranny;

Whereas more than 16,000,000 Americans served in the United States Armed Forces during World War II, and millions more supported the war effort at home;

Whereas more than 400,000 brave Americans made the ultimate sacrifice during World War II in the name of freedom and in defense of the ideals that the people of the United States hold dear;

Whereas units of the United States Army, such as the 1st Infantry Division known as "The Big Red One", the 28th Infantry Division known as the "Rock of the Marne", the 10th Armored Division known as the "Tiger Division", and the "Flying Tigers" of the 14th Air Force, valiantly defeated the oppression and tyranny of the Axis Powers;

Whereas the great tragedy of World War II was the defining event of the 20th century, when the brave men and women of the United States Armed Forces fought for the common defense of the United States and for the broader causes of peace and freedom from tyranny throughout the world; and

Whereas the members of the United States Armed Forces, including the "Greatest Generation" of World War II, made sacrifices and displayed bravery in the name of freedom and democracy throughout the world: Now, therefore, be it

Resolved, That the Senate—
(1) expresses appreciation to the members of the United States Armed Forces who served during World War II for—
(A) the selfless service of those servicemembers to the United States;
(B) restoring freedom to the world; and
(C) defeating the enemies of evil and oppression;

That the Congress lauds the heroism and bravery displayed by the members of the United States Armed Forces who served during World War II, known as the "Greatest Generation", in the line of death and honor, and honors those servicemembers who made the ultimate sacrifice;
(3) proudly honors the members of the "Greatest Generation" on the occasion of the forthcoming 60th anniversary of the end of World War II, and in conjunction with the "Great American Greeting Weekend" in Pittsburgh, Pennsylvania; (4) prouly honors all members of the United States Armed Forces, past and present who defend the freedom of the United States in times of both war and peace; and (5) commends the participants of the "Greatest American Greeting Weekend" that takes place from September 2, 2005 through September 5, 2005 in Pittsburgh, Pennsylvania.

SENATE RESOLUTION 217—DESIGNATING AUGUST 13, 2005, AS "NATIONAL MARINA DAY"

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to—

S. Res. 217

Whereas the people of the United States value highly recreational time and the ability to enjoy the waterways of the United States, one of the country's greatest natural resources; Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word "marina" to describe a recreational boating facility; Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating; Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect surrounding waterways for the enjoyment of this generation and generations to come; Whereas the people of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and Whereas the Association of Marina Industries has designated August 13, 2005 as "National Marina Day" to increase awareness among policymakers, marina operators, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the Senate— (1) DESIGNATING AUGUST 13, 2005, AS "NATIONAL MARINA DAY"; (2) encourages the people of the United States to observe "National Marina Day" with appropriate programs and activities; and (3) urges the marinas of the United States to continue to provide environmentally friendly gateways to boating for the people of the United States.

SENATE CONCURRENT RESOLUTION 48—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO PROMOTE PUBLIC AWARENESS OF DOWN SYNDROME

Mr. DURBIN (for himself and Mr. CORNYN) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs—

S. Con. Res. 48

Whereas Down syndrome affects people of all races and economic levels; Whereas Down syndrome is the most frequently occurring chromosomal abnormality; Whereas 1 in every 600 to 1,000 children is born with Down syndrome; Whereas more than 350,000 people in the United States have Down syndrome; Whereas 5,000 children with Down syndrome are born each year in the United States; Whereas as the mortality rate associated with Down syndrome in the United States decreases, the prevalence of individuals with Down syndrome in the United States will increase; Whereas some experts project that the number of people with Down syndrome will double by 2013; Whereas individuals with Down syndrome are becoming increasingly integrated into society and community organizations, such as schools, health care systems, work forces, and social and recreational activities; Whereas more and more people in the United States interact with individuals with Down syndrome on a day-to-day basis through widespread public acceptance and education; and Whereas a greater understanding of Down syndrome and advancements in treatment of Down syndrome-related health problems have allowed people with Down syndrome to enjoy fuller and more active lives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that— (1) the United States Postal Service should issue a commemorative postage stamp to promote public awareness of Down syndrome; and (2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1605. Mr. FRIST (for Mr. CRAIG) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others. SA 1606. Mr. FRIST proposed an amendment to amend S 1605 proposed by Mr. FRIST (for Mr. CRAIG) to the bill S. 397, supra. SA 1607. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1608. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1616. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table. SA 1617. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1618. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1619. Mr. CORZINE (for himself, Mr. LAUTENBERG, Ms. MUKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1620. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table. SA 1621. Mrs. FEINSTEIN (for herself, Mr. CORZINE, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFRIES, Mr. LEVIN, Ms. MUKULSKI, Mr. SCHUMER, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1624. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1625. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table. SA 1626. Mr. REED (for Mr. KOHL) proposed an amendment to the bill S. 397, supra. SA 1627. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1516, to reauthorize Amtrak, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation. SA 1628. Mr. MCCONNELL (for Mr. HAGEL) proposed an amendment to the resolution S. Res. 86, designating August 16, 2005, as "National Airborne Day". SA 1629. Mr. MCCONNELL (for Mr. FEINGOLD) proposed an amendment to the resolution S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities. SA 1630. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive relief resulting from the misuse of their products by others; which was ordered to lie on the table.
SA 1601. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1602. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1605. Mr. FRIST (for Mr. CRAIG) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 10, line 5, strike “or” and all that follows through line 16 and insert the following:

(v) an action for death, personal injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

SA 1606. Mr. FRIST proposed an amendment to amendment SA 1605 proposed by Mr. CRAIG to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

At the end, insert the following:

(vi) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was on the “Most Wanted Terrorists List” or the “Ten Most Wanted Fugitives List” published by the Federal Bureau of Investigation.

SA 1609. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, personal injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

SA 1607. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 6, strike lines 10 through 19 and insert the following:

(vi) any action in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was a representative of an organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term “negligent entrustment” means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

SA 1608. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

SEC. 2. PROHIBITION OF BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN A FEDERAL OR STATE COURT.

A qualified civil liability action may not be brought in any Federal or State court.

SA 1600. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, personal injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was a representative of an organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

SA 1610. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 8, strike lines 2 through 12 and insert the following:

(A) IN GENERAL.—The term “qualified civil liability action” means a civil action brought by any person against a manufacturer or seller of a qualified product for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

SA 1611. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 8, strike lines 2 through 12 and insert the following:

(A) IN GENERAL.—The term “qualified civil liability action” means a civil action brought by any person against a manufacturer or seller of a qualified product for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

SA 1612. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, personal injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe, that the actual buyer of the qualified product was a representative of an organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).
were engaging in actions that are grossly negligent or that constitute willful misconduct.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ‘negligent entrustment’ means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi) of subparagraph (A)(ii) shall be subject to a fine, community service, or both not to exceed—

1. $1,000 or 100 hours of community service for the first violation;
2. $5,000 or 500 hours of community service for each subsequent violation.

SA 1614. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;
(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage;
(vi) any case in which a manufacturer or seller of a qualified product failed to report the theft or loss of a firearm from the inventory of the manufacturer or seller, as required under section 923(g)(6) of title 18, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term ‘negligent entrustment’ means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi) of subparagraph (A)(ii) shall be subject to a fine, community service, or both not to exceed—

1. $1,000 or 100 hours of community service for the first violation;
2. $5,000 or 500 hours of community service for each subsequent violation.

SA 1615. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking “or” or “at” the end;
(2) in clause (ii), by striking the period at the end and inserting a semicolon; and
(3) by adding at the end the following:

“(iii) a projectile that may be used in a handgun and that the Attorney General determines, under section 926(d), to be capable of penetrating body armor; or
(iv) a projectile for a center-fire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, under section 926(d), to be more likely to penetrate body armor than standard ammunition of the same caliber.”.

(b) DETERMINATION OF THE CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

“(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.
(2) The standards promulgated under paragraph (1) shall take into account, among other factors, variations in performance that are related to the length of the barrel of the firearm from which the projectile is fired and the amount and kind of powder used to propel the projectile.
(3) As used in paragraph (1), the term ‘Body Armor Exemplar’ means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.”.

SA 1616. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

SEC. 5. PROHIBITION ON SALE OF VIOLENT VIDEO GAMES TO MINORS.

(a) IN General.—No business shall sell or rent, or permit the sale or rental of any video game with a ‘Mature, Adults-Only, or Ratings Pending’ rating from the Entertainment Software Ratings Board to any individual who has not attained the age of 17 years or older.

(b) AFFIRMATIVE DEFENSE.—It shall be a defense to any prosecution for a violation of this subsection that the business was shown a valid identification document, which the business reasonably believed to be valid, indicating that the individual purchasing or renting the video game had attained the age of 17 years or older.

(c) PENALTY.—The manager or agent of the manager of a business found to be in violation of the prohibition under subsection (a) shall be subject to a fine, community service, or both not to exceed—

1. $1,000 or 100 hours of community service for the first violation;
2. $5,000 or 500 hours of community service for each subsequent violation.

(d) ENTERTAINMENT SOFTWARE RATINGS BOARD.—The term ‘Entertainment Software Ratings Board’ means the independent rating system, or any successor rating system.

(3) VIDEO GAME.—The term ‘video game’ means an electronic or physical device that—

(A) stores recorded data or instructions;
(B) receives data or instructions generated by the person who uses it; and
(C) by processing such data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, console, or other technology.

SA 1617. Mr. CORZINE (for himself, Mr. LUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, add the following:

SEC. 5. FIVE-SEVEN PISTOL.

(1) FINDINGS.—Congress finds the following:

(A) Law enforcement is facing a new threat from handguns and accompanying ammunition, which are designed to penetrate police body armor, being marketed and sold to civilians.
SA 1618. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. CLINTON, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller involving an injury to or the death of a person under 17 years of age.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrenchment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi) shall apply to negligence actions brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

SEC. 5. FIFTY-CALIBER SNIPER WEAPONS.

(a) AVERAGE OF .50 CALIBER SNIPER WEAPONS UNDER THE NATIONAL FIREARMS ACT.—

(1) IN GENERAL.—Section 5845(a) of the Internal Revenue Code of 1986 (defining firearm) is amended by adding after "(6) a machine gun;

(7) any silencer (as defined in section 921 of title 18, United States Code); and

(8) a destructive device.

and inserting "(8) a .50 caliber sniper weapon;"

(b) IN GENERAL.—Section 5845(d) of the Internal Revenue Code of 1986 (defining terms relating to firearms) is amended by adding after the end thereof the following:

"(d) FIFTY CALIBER SNIPER WEAPON.—The term " .50 caliber sniper weapon" means a rifle
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capable of firing a center-fire cartridge in .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers.

(b) DEFINITION TO DEFINITION OF RIFLE.—Section 5845(c) of the Internal Revenue Code of 1986 (defining rifle) is amended by inserting ‘‘or from a bipod or other support’’ after ‘‘shoulder’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall only apply to a .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers.’’

SA 1622. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 7, line 25, after ‘‘foreign commerce’’ insert the following: ‘‘; but does not include a person involved in the firing of a center-fire cartridge in .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers.’’

SA 1623. Mr. LEVIN (for himself and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) In General.—Nothing in this Act shall be construed to prohibit a civil liability action from being brought or continued against a person if the gross negligence or reckless conduct of the person was a proximate cause of death or injury.

(b) Definitions.—As used in this section—

(1) the term ‘‘gross negligence’’ has the meaning given to the term under subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 179(b)(7)); and

(2) the term ‘‘reckless’’ has the meaning given to the term under the chapter of the Federal Sentencing Guidelines Manual.

SA 1624. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 12, after line 24, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) Short Title.—This section may be cited as the ‘‘Child Safety Lock Act of 2005’’.

(b) Purpose.—The purpose of this section is—

(1) to promote the safe storage and use of handguns by consumers; and

(2) to prevent unauthorized persons from gaining access to or the use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational purposes.

(c) Firearms Safety.—

(1) Mandatory Transfer of Secure Gun Storage or Safety Device.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

‘‘(c) Secure Gun Storage or Safety Device.—

‘‘(1) In General.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device as defined in section 921(a)(34)(B) for that handgun.

‘‘(2) Exemptions.—(Par. 1) shall not apply to—

(A) the manufacturer, for transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(B) the transfer to, or possession by, a railroad officer or rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty); or

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described at subsection (b) of section 922(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

‘‘(3) Liability for Use.—

(A) In General.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device, shall not be held to be liable to any person not so authorized, the handgun had access to it; and

(B) Judicial Actions.—A qualified civil liability action may not be brought in any Federal or State court.

(C) Defined Term.—As used in this paragraph, the term ‘‘qualified civil liability action’’—

‘‘(i) means a civil action brought by a person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

‘‘(II) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

‘‘(ii) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

‘‘(B) shall not include an action brought against a person having lawful possession and control of the handgun for negligent entrustment or negligence per se.’’.

(D) Civil Penalties.—Section 924 of title 18, United States Code, is amended by—

(A) in subsection (a)(1), by striking ‘‘or (F)’’ and inserting ‘‘(G), (O), or (P)’’; and

(B) by adding at the end the following:

‘‘(P) Penalties Relating To Secure Gun Storage Or Safety Device.—

‘‘(1) In General.—

‘‘(B) Suspension Or Revocation Of License; Civil Penalties.—With respect to each violation of section 922(k)(1) by a licensed importer, licensed manufacturer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

‘‘(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

‘‘(ii) subject the licensee to a civil penalty in an amount equal to $2,500.

‘‘(B) Review.—An action of the Secretary under this paragraph may be reviewed only as provided under section 922(f).

‘‘(2) Administrative Remedies.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.’’.

(E) Liability; Evidence.—

(A) Liability.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) Evidence.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be inadmissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(k) of title 18, United States Code, as added by this subsection.

(C) Rule of Construction.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 929(p) of title 18, United States Code, for a failure to comply with section 922(k) of that title.

(D) Effective Date.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SA 1625. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 8, line 21, before the semicolon, insert the following: ‘‘; or an action against a seller that has an established history of qualified products being lost or stolen, under such criteria as shall be established by the Attorney General by regulation, for an in death cause by a product that was in the possession of the seller, but subsequently lost or stolen’’.

SA 1626. Mr. REED (for Mr. KOHL) proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

At the end of the bill, add the following:

SEC. 5. CHILD SAFETY LOCKS.

(a) Short Title.—This section may be cited as the ‘‘Child Safety Lock Act of 2005’’.
(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LIC- 

ENCE; CIVIL PENALTIES.—With respect to each violation of section 922(e)(1)(A) by a li-

enced manufacturer, licensed importer, or licensed dealer, the Secretary may, after-

ce notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or 

revoke, the license issued to the licensee 

under this chapter that was used to conduct the 

firearms transfer; or

"(ii) subject the licensee to a civil penalty 

in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary 

under this paragraph may be reviewed only as 

provided under section 923(f).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Notwithstanding any 

law, rule, or provision of law, evidence regarding compli-

ance with the requirements of this section shall not be admissible 

in any Federal or State court.

"(B) ADMINISTRATIVE REMEDIES.—The sus-

pension or revocation of a license or the 

imposition of a civil penalty under paragraph 

(1) shall not preclude any administrative 

remedy that is otherwise available to the 

Secretary.

(2) LIABILITY; EVIDENCE.—

"(A) LIABILITY.—Nothing in this section

shall be construed to—

"(i) create a cause of action against any 

Federal firearms licensee or any other 

person for any civil liability; or

"(ii) establish any standard of care.

"(B) EVIDENCE.—Notwithstanding any 

other provision of law, evidence regarding compli-

ance or noncompliance with the requirements of this section shall not be admissible as evidence of the negligence of any court, 

agency, board, or any other entity, except with respect to an action relating to section 922(z) of 

title 18, United States Code, as added by this subsection.

"(C) RULE OF CONSTRUCTION.—Nothing in 

this paragraph shall be construed to bar a 

governmental action to impose a penalty 

under section 924 of title 18, United States 

Code, for a failure to comply with section 922(z) of 

title 18, United States Code, as added by this subsection.

(2) CIVIL PENALTIES.—Section 924 of title 18, 

United States Code, is amended by

(i) creating a cause of action against any 

Federal firearms licensee or any other per-

son for any civil liability; and

(ii) subjecting the licensee to a civil penalty

in an amount equal to not more than $2,500.

(3) LIABILITY; EVIDENCE.—

"(A) LIABILITY.—Nothing in this section

shall be construed to—

"(i) create a cause of action against any 

Federal firearms licensee or any other 

person for any civil liability; or

"(ii) establish any standard of care.

"(B) EVIDENCE.—Notwithstanding any 

other provision of law, evidence regarding compli-

ance or noncompliance with the requirements of this section shall not be admissible as evidence of the negligence of any court, 

agency, board, or any other entity, except with respect to an action relating to section 922(z) of 

title 18, United States Code, as added by this subsection.

(2) CIVIL PENALTIES.—Section 924 of title 18, 

United States Code, is amended by

(i) creating a cause of action against any 

Federal firearms licensee or any other per-

son for any civil liability; and

(ii) subjecting the licensee to a civil penalty

in an amount equal to not more than $2,500.

(4) CREDIT ALLOWANCE DATE.—For pur-

poses of this section, the term 'credit allow-

ance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15

Such term includes the last day on which the bond is outstanding.

(5) SPECIAL RULE FOR ISSUANCE AND RE-

DEMPTION.—In the case of a bond which is 

issued during the 3-month period ending on a 

credit allowance date, the amount of the 

credit determined under this subsection with 

respect to such credit allowance date shall be a 

ratable portion of the credit otherwise 

determined based on the portion of the 3-

month period during which the bond is 

outstanding. A similar rule shall apply when the 

bond is redeemed.

(6) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under 

subsection (a) for any taxable year shall not 

exceed the excess of—

"(A) the sum of the regular tax liability 

(deducting any itemized deduction) for 

the taxable year, and

"(B) the sum of the credits allowable under 

subsection (a) for any prior taxable year 

and any credits allowable for any taxable year 

beginning after the date of enactment of this 

Act.

"(2) CARRYOVER OF UNUSED CREDIT.—If 

the credit allowable under subsection (a) exceeds 

the limitation imposed by paragraph (1) for 

any taxable year, such excess shall be 

carried over to the succeeding taxable year and 

added to the credit allowable under subsection 

(a) for such taxable year.

(3) CREDIT INCLUDED IN GROSS INCOME.— 

"(A) IN GENERAL.—The credit allowed under 

subsection (a) shall be treated as interest income.

"(B) CREDITS MAY BE STRIPPED.—If the 

credit allowed under subsection (a) exceeds the 

limitation imposed by paragraph (1) for 

any taxable year, such excess shall be 

carried over to the succeeding taxable year and 

added to the credit allowable under subsection 

(a) for such taxable year.

"(C) CARRYOVER OF UNUSED CREDIT.—If 

the credit allowable under subsection (a) exceeds 

the limitation imposed by paragraph (1) for 

any taxable year, such excess shall be 

carried over to the succeeding taxable year and 

added to the credit allowable under subsection 

(a) for such taxable year.
the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

(2) CERTAIN RULES TO APPLY.—In the case of a bond issued in a manner described in paragraph (1), the rules of section 1286 shall apply to the qualified rail infrastructure bond as if it were a stripped bond and to the credit under this section as if it were a stripped bond and to the credit under this section.

(f) QUALIFIED RAIL INFRASTRUCTURE BOND.—For purposes of this part, the term ‘qualified rail infrastructure bond’ means any bond issued as part of an issue if—

(1) the issuer certifies that the Secretary of Transportation has designated the bond for purposes of this section under section 26106(a) of title 49, United States Code, as in effect on the date of the enactment of this section,

(2) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any project described in section 26106(a)(2) of title 49, United States Code,

(3) the term of each bond which is part of such issue does not exceed 20 years,

(4) the payment of principal with respect to such bond is the obligation solely of the issuer, and

(5) the proceeds from the sale of the issue that accrue after the date of issuance, or the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance, or

the issuer reasonably expects—

(A) to complete such projects and to spend the proceeds from the sale of such issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance,

(B) to incur a binding commitment with a third party that is an organization described in section 2441(d)(1)(B) to enter into a contract with respect to such projects within the 6-month period beginning on such date, and

(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of such issue.

(2) RULES REGARDING CONTINUING COMPLIANCE.—If at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issuer shall be treated as continuing to meet the requirements of this subsection if either—

(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issuer within 90 days after the end of such 3-year period, or

(B) the following requirements are met:

(i) the issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

(ii) Either—

(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance, or

(iii) The issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issuer within 90 days after the end of the 4-year period beginning on the date of issuance.

(3) TREATMENT OF CHANGES IN USE.—For purposes of subsection (g), the following new paragraph:

(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified rail infrastructure bond ceases to be such a qualified rail infrastructure bond because it passes to or is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary of the Treasury.

(4) ADDITIONAL REQUIREMENTS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond under the requirements of paragraphs (1) through (4) of section 26106(a) of title 49, United States Code, as amended, for purposes of this section.

(5) REPORTING.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 48(e).

(a) Amendments to Other Code Sections.—

(b) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6655 of such Code (relating to failure to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (i) the following new subsection:

(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 55 to a taxpayer in reason of holding a qualified rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

(B) CORPORATE.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (b) the following new paragraph:

(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 55 to a corporation in reason of holding a qualified rail infrastructure bond on a credit allowance date shall be considered an estimated tax made by the corporation on such date.

(c) Clerical Amendments.—(1) The table of subjects for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

SUBPART H. NONREFUNDABLE CREDIT FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(2) Section 6601(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) Issuance of Regulations.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations for carrying out this section and the amendments made by this section.
resolution S. Res. 86, designating Au-
gust 16, 2005, as "National Airborne Day"; as follows:

On page 5 strike lines 1 through 5 and in-
sert the following:

(A) NEGLECTFUL ENTRUSTMENT.—As used in
paragraph (A)(ii), the term "negligent en-
trustment" means the supplying of a quali-
fied product by a seller for use by another
person when the seller knows, or reasonably
should know, the person to whom the prod-
uct is supplied is likely to, and does, use the
product in a manner involving unreasonable
risk of physical injury to the person or oth-
ers.

(B) NEGLECTFUL ENTRUSTMENT.—As used in
paragraph (A)(ii), the term "negligent en-
trustment" means the supplying of a quali-
fied product by a seller for use by another
person when the seller knows, or reasonably
should know, the person to whom the prod-
uct is supplied is likely to, and does, use the
product in a manner involving unreasonable
risk of physical injury to the person or oth-
ers.

(C) RULE OF CONSTRUCTION.—The excep-
tions enumerated under clauses (i) through

SA 1631. Mr. SCHUMER submitted an amend-
ment intended to be proposed by him to the bill S. 397, to prohibit civil
liability actions from being brought or
continued against manufacturers, dis-
tributors, dealers, or importers of fire-
arms or ammunition for damages, in-
junctive or other relief resulting from
the misuse of their products by others;
which was ordered to lie on the table; as follows:
On page 10, strike line 3 and all that fol-
lows through page 11, line 2, and insert the follow-

(iv) an action for breach of contract or
warranty in connection with the purchase of
the product;

(v) an action for death, physical injuries or
property damage resulting directly from a
defect in design or manufacture of the prod-
uct, when used as intended or in a reason-
ably foreseeable manner, except that where the
discharge of the product was caused by a
volitional act that constituted a criminal of-
fense then such act shall be considered the
sole proximate cause of any resulting death,
personal injuries or property damage;

(vi) any case in which a manufacturer or
seller of a qualified product caused an injury
by means of a qualified product that is in-
volved in an illegal interstate firearms traf-
icking punishable under section 924 of title
18, United States Code.

(B) NEGLECTFUL ENTRUSTMENT.—As used in
paragraph (A)(ii), the term "negligent en-
trustment" means the supplying of a quali-
fied product by a seller for use by another
person when the seller knows, or reasonably
should know, the person to whom the prod-
uct is supplied is likely to, and does, use the
product in a manner involving unreasonable
risk of physical injury to the person or oth-
ers.

(C) RULE OF CONSTRUCTION.—The excep-
tions enumerated under clauses (i) through

SA 1632. Mr. SCHUMER submitted an amend-
ment intended to be proposed by him to the bill S. 397, to prohibit civil
liability actions from being brought or
continued against manufacturers, dis-
tributors, dealers, or importers of fire-
arms or ammunition for damages, in-
junctive or other relief resulting from
the misuse of their products by others;
which was ordered to lie on the table; as follows:
On page 10, strike line 3 and all that fol-
lows through page 11, line 2, and insert the follow-

(iv) an action for breach of contract or
warranty in connection with the purchase of
the product;

(v) an action for death, physical injuries or
property damage resulting directly from a
defect in design or manufacture of the prod-
uct, when used as intended or in a reason-
ably foreseeable manner, except that where the
discharge of the product was caused by a
volitional act that constituted a criminal of-
fense then such act shall be considered the
sole proximate cause of any resulting death,
personal injuries or property damage;

(vi) any case in which a manufacturer or
seller of a qualified product caused an injury
by means of a qualified product that is in-
volved in an illegal interstate firearms traf-
icking punishable under section 924 of title
18, United States Code.

(B) NEGLECTFUL ENTRUSTMENT.—As used in
paragraph (A)(ii), the term "negligent en-
trustment" means the supplying of a quali-
fied product by a seller for use by another
person when the seller knows, or reasonably
should know, the person to whom the prod-
uct is supplied is likely to, and does, use the
product in a manner involving unreasonable
risk of physical injury to the person or oth-
ers.

(C) RULE OF CONSTRUCTION.—The excep-
tions enumerated under clauses (i) through

SA 1642. Mr. SCHUMER submitted an amend-
ment intended to be proposed by him to the bill S. 397, to prohibit civil
liability actions from being brought or
continued against manufacturers, dis-
tributors, dealers, or importers of fire-
arms or ammunition for damages, in-
junctive or other relief resulting from
the misuse of their products by others;
The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS
Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 27, 2005, at 9:30 a.m., in room 216 of the Hart Senate Office Building to conduct an oversight hearing on lands eligible for gambling pursuant to the Indian Gaming Regulatory Act.

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

COMMITTEE ON DISASTER PREVENTION AND TERRORISM
Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on “FBI Oversight” on Wednesday, July 27, 2005, at 9:30 a.m., in Dirksen Senate Office Building room 226.

Witness List
Panel I: Robert Mueller, Director, Federal Bureau of Investigation, Department of Justice, Washington, DC; Panel II: Glenn Fine, Inspector General, Department of Justice, Washington, DC; Lee Hamilton, President and Director, Woodrow Wilson International Center for Scholars, Washington, DC; William H. Webster, Partner Milbank, Tweed, Hadley & McCloy LLP, Washington, DC; and John A. Russack, Program Manager, Information Sharing Environment, Director of National Intelligence, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE
Mr. CORNYN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 2:30 p.m. to hold a briefing.

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

SPECIAL COMMITTEE ON AGING
Mr. CORNYN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Wednesday, July 27, 2005, from 2:30 p.m. to 5 p.m., in Dirksen 106, for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION
Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Disaster Prevention and Prediction be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., on All Hazards Alert Systems, in SH–253.

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

SUBCOMMITTEE ON ENERGY
Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Energy be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 3 p.m. The purpose of the hearing is to receive testimony on recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry. Testimony will also address the remaining challenges to the development of these technologies.

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

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION
Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Conservation, and Rural Revitalization be authorized to conduct a hearing during the session of the Senate on Wednesday, July 27, 2005, at 10 a.m. in SR–328A, Russell Senate Office Building. The purpose of this subcommittee hearing will be to discuss oversight of the Conservation Reserve Program.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION AND INTERNATIONAL SECURITY
Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 2:30 p.m., to hold a hearing on United Nations Peacekeeping Reform.

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

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND TERRORISM
Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on International Operations and Terrorism be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 2:30 p.m., to hold a hearing regarding “Who’s Watching the Watchdog? Examining Financial Management at the SEC.”

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

PRIVILEGE OF THE FLOOR
Mr. CRAIG. Mr. President, I ask unanimous consent that Ken Webster, a law clerk in my office, be granted privileges of the floor during the pending S. 397 or any motions related to that bill.

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

Mr. DAYTON. Mr. President, I ask unanimous consent that Laura Soltis of my office be granted floor privileges for this debate.

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that a fellow from my office, Julie Caruthers, be allowed floor privileges for the duration of the debate on H.R. 3423.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that Andrew Ginsburg, a fellow on my staff, be granted privileges of the floor during the remainder of the debate on S. 397.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3423 which was received from the House.

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

Mr. ENZI. Mr. President, I rise today to voice my support for the Medical Device User Fee Stabilization Act of 2005. This legislation preserves a valuable program for the review of innovative medical technologies.

This bill, H.R. 3423, is identical to S. 1420, which was reported last week by the Committee on Health, Education, Labor, and Pensions. It’s a bipartisan, bicameral compromise that had unanimous support when it was reported out of the committee. It keeps an important Government program going, while providing more stability for the industry. We have considered the needs of small and large businesses, all while ensuring that FDA has enough resources to maintain a high level of effectiveness.

This compromise results in an 8.5 percent increase in user fees for each of the next 2 years. This is a significant reduction from the 20 percent annual increases these companies have been seeing. We have also raised the small business threshold more than threefold, from $30 million to $100 million. This means that additional companies will be able to take advantage of reduced fees for the review of new devices. This bill will result in an average increase to FDA of 6 percent in user fee revenues over the next 2 years, which means FDA will be able to continue reviewing new devices and will not be forced to lay off experienced FDA staff or wind down a program that has been successful.

Finally, this compromise clarifies a provision in the 2002 medical device law regarding the marking of reprocessed devices. I know that this provision, and any change to it, is controversial. However, we have found a fair way forward. The bill we are considering today would require reprocessors to mark the device to identify the reprocessor, if the original manufacturer has marked the device. If the original manufacturer has not marked the device, the reprocessor must still mark the device but has more flexibility in how to do so. This is workable, and it is even-handed.

My colleagues, Senators BURR, DEWINE, MIKLUSKI, DODD and MURRAY, have had great interest in the medical device user fee program, and I thank them for cosponsoring the Senate bill. I would also like to thank Senator HATCH for his attention and input into
this issue. He is a strong defender of the small, entrepreneurial companies in this industry. We worked together before committee consideration of this bill to address his concerns about the impact of user fees on the innovative companies in his home State of Utah. I welcome his support and cosponsorship of the Senate bill.

Of course, I want to thank our staff for laboring so diligently to find a workable, reasonable compromise and doing so under difficult time constraints. In particular, I want to thank Jennifer Hansen, Abby Kral, Ellen-Marie Whelan, Ben Berwick, Anne Grady, Patricia Knight, and Patricia DeLoache. I also want to thank my committee staff Amy Muhlberg and Stephen Northrup.

Finally, I must express my deep appreciation and thanks to the ranking member, Senator KENNEDY, and his staff, David Bowen and David Dorsey, for their hard work and support during this process. We have produced a fair deal, and I urge my colleagues to lend their strong support.

Mr. MCCRANELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed.

I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (H.R. 4232) was read the third time and passed.

FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH IMPROVEMENT ACT

Mr. McCracken. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 117, S. 302.

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

The assistant legislative clerk read as follows:

A bill (S. 302) to make improvements in the Foundation for the National Institutes of Health.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

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

SEC. 2. NATIONAL INSTITUTES OF HEALTH ESTABLISHMENT AND DUTIES.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (D)(ii) to read as follows:

‘‘(ii) Upon the appointment of the appointed members of the Board under clause (1)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board.’’;

(B) by amending paragraph (3)(B) to read as follows:

‘‘(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), except that the power of the remaining appointed members to execute the duties of the Board.’’; and

(C) in paragraph (5), by inserting ‘‘apPOINTED’’ after ‘‘that the number of’’;

(2) in subsection (j)—

(A) in paragraph (2), by striking ‘‘(d)(2)(B)(i)(II)’’ and inserting ‘‘(d)(6)’’; and

(B) in paragraph (10), by striking ‘‘of Health’’ and inserting ‘‘of Health and the National Institutes of Health’’.

SEC. 3. NATIONAL INSTITUTES OF HEALTH IMPROVEMENT ACT.

This Act may be cited as the ‘‘Foundation for the National Institutes of Health Improvement Act’’.

SEC. 4. FUNDING.

From amounts appropriated to the National Institutes of Health for each fiscal year, the Director of NIH shall transfer not less than $500,000 to the Foundation.

I urge my Senate colleagues to support this legislation, which will enable the Foundation to continue its effective support of the work and mission of the NIH.

Mr. McCracken. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that

Mr. KENNEDY. Mr. President, I strongly support the Foundation for the National Institutes of Health Improvement Act.

The bill makes several improvements in the 1990 law that established the Foundation. Most significantly, it assures the Foundation at least $500,000 annually from the NIH to support its administrative and operating expenses. The bill also makes clear, the NIH Director and the Commissioner of Food and Drugs are ex officio members of the Foundation’s board of directors.

Congress established the Foundation in 1990 to raise private funds to support the research of the NIH. The Foundation has been a remarkable success. For every dollar the Foundation received from the NIH in 2003, it raised $426 in private funds. Since its creation, it has raised $270 million, or $68 in private support for every dollar from the NIH.

The Foundation is currently managing 37 programs supported by $270 million generated from private contributions to support research on global health priorities, to identify biochemical signs of osteoarthritis and Alzheimer’s Disease, and to build on the promise of genomics. Through a public-private partnership, the Foundation has helped accelerate the sequencing of the mouse genome. It is also collecting private funds to study drugs in children. In 2003, Bill Gates announced a gift to the Foundation of $270 million over the next 10 years to support research on global health priorities. Clearly, the Foundation’s partnership with the NIH will grow productively in the coming years.

I urge my Senate colleagues to support this legislation, which will enable the Foundation to continue its effective support of the work and mission of the NIH.
any statements relating to the bill be printed in the RECORD.

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

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

The bill (S. 382), as amended, was read the third time and passed.

S. 655

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 140, S. 655.

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

The assistant legislative clerk read as follows:

A bill (S. 655) to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read the third time and passed.

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

The committee amendment in the nature of a substitute was agreed to. The bill (S. 655), as amended, was read the third time and passed.

S. 655

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

SECTION 1. NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION; ACCEPTANCE OF VOLUNTARY SERVICES; FEDERAL FUNDING.

(a) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES; STRIKING TWO-YEAR LIMIT PER INDIVIDUAL.

Section 399G(h)(2)(A) of the Public Health Service Act (42 U.S.C. 280e–11(h)(2)(A)) is amended by striking the second sentence and inserting the following: “In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual until such time as the private funding for such individual ends.”.

(b) FEDERAL FUNDING.

Section 399G(i) of the Public Health Service Act (42 U.S.C. 280e–11(h)(1)) is amended—

(1) in paragraph (2)—

(A) by striking “$500,000”, and inserting “$1,250,000”;

and

(2) by adding at the end the following:

“(4) SUPPORT SERVICES.—The Director of the Centers for Disease Control and Prevention may provide or facilitate support services to the Foundation if it is determined by the Director to be advantageous to the programs of such Centers.”.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read the third time and passed.

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

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

The bill (S. 655), as amended, was read the third time and passed.

AUTHORIZING THE CONVEYANCE OF CERTAIN FEDERAL LAND IN NEW MEXICO

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of S. 447 and the Senate proceed to its immediate consideration.

SEC. 2. DEFINITIONS.

(a) CONVEYANCE.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary:

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board.

(c) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—

(A) the cost of any surveys of the land; and

(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under subsection (d)(2)(A), the Board shall remediate the contamination;

and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

PERMITTING WOMEN’S BUSINESS CENTERS TO RE-COMPETE FOR SUSTAINABILITY GRANTS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1517, which was introduced earlier today.

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

The assistant legislative clerk read as follows:

A bill (S. 1517) to permit Women’s Business Centers to re-compete for sustainability grants.

There being no objection, the Senate proceeded to consider the bill.
Ms. SOWE. Mr. President, I rise today in support of this bill that would provide critical funding that is needed to preserve the operations of existing Women's Business Centers that currently serve women entrepreneurs in almost every state and territory.

Women-owned businesses breathe new life into our economy, grow at twice the rate of all firms, and create jobs with pace-setting results. With 10.6 million women-owned businesses across the Nation, employing more than 19 million Americans, and generating nearly $2.5 trillion in revenue—indeed, they are nothing short of an economic powerhouse!

Part of our job is to make sure that Government programs continue to help small and women-owned businesses. We can't afford to ignore, or reduce, the extraordinary contributions America's business women are making to our economy, our society, and our future.

The Small Business Administration's Women's Business Center has been a tremendous resource to women-owned businesses across the Nation. Since the program was introduced through the Small Business Ownership Act of 1988, and made permanent in 1997, Congress has agreed that the program is critical for women business owners. In fact, the program's unique training and counseling helped clients generate more than $235 million in revenue and create or retain over 6,500 jobs in 2003. This program clearly has made a record of success, fostering job growth and providing American small businesses with the opportunity to thrive.

If we look at the centers that are achieving the greatest impact, it is the established centers. The results of their outreach and one-on-one assistance has made it possible for the Small Business Administration to achieve its goals as it measures the success of the products and programs offered by these centers.

However, 11 of our longest standing Women's Business Centers located in California, Colorado, Maine, Massachusetts, Michigan, Minnesota, New Mexico, Oregon, Pennsylvania and Wisconsin now face the possibility of closing their doors. The Federal Government has invested 10 years helping to establish these centers which, in turn, have helped women-owned businesses start and existing businesses grow.

In accordance with outdated legislation, the SBA plans to award 92 competitive grants to regular and sustainable women's business centers in September with the fiscal year 2005 appropriations. However, our 11 longest standing centers will not be eligible to compete for these grants. This was not the intent of the Senate. Last Congress, the Senate agreed to transform the women's business center program into a 3-year competitive grant program, which is reflected in my bill S. 1375, the Small Business Administration's 50th Anniversary Reauthorization Act of 2003. While the House failed to pass their version of the bill, limited provisions of the bill were included in the fiscal year 2005 Omnibus package. However, the women's business center provisions, among others, failed to make the omnibus bill and this program now operates under outdated legislation.

This emergency legislation temporarily solves this problem and preserves our investment by simply making the women's sustainability grant funding available for these 11 existing centers only during fiscal year 2005. While we must fix the funding problem in the long-run, we also face a crisis today. With this legislation, existing centers that have been established for the longest period of time would be able to operate without disruption in funding and could continue the programs and services they currently offer. Moreover, this provision does not require any additional appropriations but only reallocates current funds.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I take great pride in the fact that my own State of Maine leads the way for women-owned businesses. Today, there are more than 63,000 women-owned firms in Maine, employing over 75,000 Mainers and generating more than $9 billion in sales. We must all be committed to multiplying that story of success in every State in America.

It is our duty to ensure that Americans have the necessary resources to start, grow and develop a business. I am committed to resolving the temporary funding issue raised in this bill and I am committed to working with my colleagues to ensure the long-term viability of the program for today's women entrepreneurs and those of tomorrow.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

The PRESIDING OFFICER. The resolution (S. Res. 216) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 216

Whereas World War II began on September 1, 1939, when Nazi Germany invaded Poland without a declaration of war and then moved, following the surrender of Poland, to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the premeditated invasion by Japan on the United States at Pearl Harbor, December 7, 1941, the United States declared war on Japan and entered World War II on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of the desire of Adolf Hitler and the Nazi regime for world conquest, the servicemembers of the United States Armed Forces were the defining event of the 20th century, the servicemembers of the United States Armed Forces who served in World War II, and millions more, made the ultimate sacrifice during World War II, and millions more supported the war effort at home;

Whereas women of the United States Army, such as the 1st Infantry Division known as the "Big Red One", the 3rd Infantry Division known as the "Rock of the Marne", the 10th Armored Division known as the "Tiger Division", and the "Flying Tigers" of the 14th Air Force, valiantly fought to defeat the oppression and tyranny of the Axis Powers;

Whereas the great tragedy of World War II was the defining event of the 20th century, when the brave men and women of the United States Armed Forces fought for the common defense of the United States and for the broader causes of peace and freedom from tyranny throughout the world; and

Whereas the members of the United States Armed Forces, including the "Greatest Generation" of World War II, made sacrifices displayed by those servicemembers and the "Greatest Generation" of World War II in the name of freedom and democracy throughout the world: Now, therefore, be it


SECTION I. WOMEN'S BUSINESS CENTERS.

Section 29(k) of the Small Business Act (15 U.S.C. 636(k)) is amended by adding at the end the following:

"(8) Prior Recipients.—Notwithstanding subsection (1)(x), any recipient of a grant under subsection (1) whose 5-year project funded in fiscal year 2004, is eligible to apply to receive the funds for grants to continue Women's Business Centers in sustainability status for fiscal year 2005 who was awarded by Public Law 108-447 (118 Stat. 2911)."

RECOGNIZING THE GREATEST GENERATION HOMECOMING WEEKEND

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate expresses appreciation to the members of the United States Armed Forces who served during World War II, for...
(A) the selfless service of those servicemembers to the United States;  
(B) restoring freedom to the world; and  
(C) defeating the elements of evil and oppression.

(2) commends the heroism and bravery displayed by the members of the United States Armed Forces who served during World War II, known as the “Greatest Generation”. In the face of death and severe hardship, and honors those servicemembers who made the ultimate sacrifice;  
(3) proudly honors the members of the “Greatest Generation” on the occasion of the forthcoming 60th anniversary of the end of World War II, and in conjunction with the “Greatest Generation Homecoming Weekend” in Pittsburgh, Pennsylvania;  
(4) proudly honors all members of the United States Armed Forces, past and present, who defend the freedom of the United States in times of both war and peace; and  
(5) commends the participants of the “Greatest Generation Homecoming Weekend” that takes place from September 2, 2005 through September 5, 2005 in Pittsburgh, Pennsylvania.

NATIONAL MARINA DAY
Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 217, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 217) designating August 13, 2005 as “National Marina Day”.

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

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 217) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 217

Whereas the Association of Marina Industries has designated August 13, 2005 as “National Marina Day” to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities; Now, therefore, be it

Resolved, That the Senate—

(1) designates August 13, 2005 as “National Marina Day”;

(2) encourages the people of the United States to observe “National Marina Day” with appropriate programs and activities; and

(3) urges the marinas of the United States to continue to provide environmentally friendly boating for the people of the United States.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. McCONNELL. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration and the Senate proceed to S. Res. 158.

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. 158) expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as “Historically Black Colleges and Universities Week”.

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

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 158) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 158

Whereas there are 105 historically Black colleges and universities in the United States;  
Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;  
Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;  
Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and  
Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved.

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 11, 2005, as “Historically Black Colleges and Universities Week”.

(b) PROCLAMATION.—The President requests the President to issue a proclamation—

(1) designating the week beginning September 11, 2005, as “Historically Black Colleges and Universities Week”; and  
(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

NATIONAL AIRBORNE DAY
Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 86.

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. 86) designating August 16, 2005, as National Airborne Day.

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

Mr. McCONNELL. I ask unanimous consent that the amendment at the desk be agreed to, as amended, be agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 1628) was agreed to, as follows:

On page 5 strike lines 1 through 5, and insert the following:

(2) requests that the people of the United States observe “National Airborne Day” with appropriate programs, ceremonies and activities.

The resolution (S. Res. 86), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

PROCLAMATION RECOGNIZING 30TH ANNIVERSARY OF HELSINKI FINAL ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S.J. Res. 19 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 19) calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. McCONNELL. I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the resolution be printed in the RECORD.
The PRESIDING OFFICER. Without objection, it is so ordered.
The joint resolution (S.J. Res. 19) was read the third time and passed, as follows:
(The resolution will be printed in a future edition of the RECORD.)

COMMEMORATING 25TH ANNIVERSARY OF 1980 WORKERS’ STRIKE IN POLAND

NATIONAL ATTENTION DEFICIT DISORDER AWARENESS DAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of S. Res. 198 and S. Res. 201 and that the Senate proceed en bloc to their consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the resolutions by title.

The Assistant legislative clerk read as follows:

A resolution (S. Res. 198) commemorating the 25th anniversary of the 1980 worker’s strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe.

A resolution (S. Res. 201) designating September 14, 2005, as National Attention Deficit Disorder Awareness Day.

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

Mr. MCCONNELL. I ask unanimous consent that the resolutions and preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc and that any statements relating thereto be printed in the RECORD, with no intervening action.

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

The resolutions, their preambles, read as follows:

S. Res. 198

Whereas, on May 9, 1945, Europe declared victory over the oppression of the Nazi regime;

Whereas, Poland and other countries in Central, Eastern, and Southern Europe soon fell under the oppressive control of the Soviet Union;

Whereas for decades the people of Poland struggled heroically for freedom and democracy as well;

Whereas, in June 1979, Pope John Paul II, the former Cardinal Karol Wojtyla, returned to Poland, his homeland, and exhorted his countrymen to be not afraid of the Communist regime;

Whereas, in 1980, the Solidarity Trade Union (known in Poland as “NSZZ Solidarnosc”), was formed in Poland under the leadership of Lech Walesa and during the 1980s the actions of its leadership and members sparked a great social movement committed to promoting fundamental human rights, democracy, and the independence of Poland from the Soviet Union (known as the “Solidarity Movement”);

Whereas, in August 1980, worker in Poland in the shipyards of Gdansk and Szczecin, led by Lech Walesa and other leaders of the Solidarity Trade Union, went on strike to demand greater political freedom;

Whereas that strike was carried out in a peaceful and orderly manner;

Whereas, in December 1980, the Communist Government of Poland yielded to the 21 demands of the striking workers, including the release of all political prisoners, the broadcasting of news on television and radio, and the right to establish independent trade unions;

Whereas the Communist Government of Poland introduced in December 1980 a transition to block the growing influence of the Solidarity Movement;

Whereas the support of the Polish-American community and crucial for the Solidarity Movement to survive and remain active during that difficult time;

Whereas the support of the United States was greatly supportive of the efforts of the people of Poland to rid themselves of an oppressive government and people in the United States lit candles in their homes on Christmas Eve 1981, to show their solidarity with the people of Poland who were suffering under martial law;

Whereas Lech Walesa was awarded the Nobel Peace Prize for continuing his struggle for freedom in Poland;

Whereas the Solidarity Movement persisted underground during the period when forces of martial law contended and emerged in April 1989 as a powerful national movement;

Whereas, in February 1989, the Communist Government of Poland agreed to conduct roundtable talks with leaders of the Solidarity Movement;

Whereas such talks led to the holding of elections for the National Assembly of Poland in June 1989 in which nearly all open seats were won by candidates supported by the Solidarity Movement, and led to the election of Lech Walesa as the first President of Poland during the post-war era who was not a member of the Communist party, Mr. Tadeusz Mazowiecki;

Whereas, the Solidarity Movement ended communism in Poland without bloodshed and inspired Hungary, Czechoslovakia, and other nations to do the same, and the activism of its leaders and members was part of the historic series of events that led to the fall of the Berlin Wall on November 9, 1989;

Whereas, on December 9, 1989, Lech Wa-leesa’s historic speech before a joint session of Congress, beginning with the words “We the people”, stirred a standing ovation from the Members of Congress;

Whereas, December 9, 1989, Lech Walesa was elected President of Poland; and

Whereas there is a bond of friendship between the United States and Poland, which is a close and invaluable United States ally, a contributing partner in the North Atlantic Treaty Organization (NATO), a reliable partner in the war on terrorism, and a key contributor to international efforts in Iraq and Afghanistan; Now, therefore, let it be

Resolved, That the Senate—
(1) declares August 31, 2005, to be Solidarity Day in the United States to recognize the 25th anniversary of the establishment in Poland of the Solidarity Trade Union (known in Poland as the “NSZZ Solidarnosc”), the first free and independent trade union established in the Soviet-dominated countries of Europe;

(2) honors the people of Poland who risked their lives in 1980, and who were among the first in the world to cast doubt on the old order and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember the essential role of the people of Poland and that the results of that struggle contributed to the fall of communism and the ultimate end of the Cold War.

S. Res. 201

Whereas Attention Deficit/Hyperactivity Disorder (also known as AD/HD or ADD), is a common neurobiological disorder affecting both children and adults, that can significantly interfere with an individual’s ability to regulate activity level, inhibit behavior, and attend to tasks in developmentally appropriate ways;

Whereas AD/HD can cause devastating consequences, including failure in school and the workplace, antisocial encounters with the justice system, interpersonal difficulties, and substance abuse;

(1) recognizes Attention Deficit/Hyperactivity Disorder (AD/HD) as a major public health concern; and

Whereas studies by the National Institute of Mental Health (NIMH) consistently reveal that through proper and comprehensive diagnosis and treatment, the symptoms of AD/HD can be substantially decreased and quality of life for the individual can be improved; Now, therefore, be it

Resolved, That the Senate—
(1) designates September 14, 2005, as “National Attention Deficit Disorder Awareness Day”;

(2) recognizes Attention Deficit/Hyperactivity Disorder (AD/HD) as a major public health concern;

(3) encourages all people of the United States to find out more about AD/HD and its symptoms, especially mental and school services, and to seek the appropriate treatment and support, if necessary;
(4) expresses the sense of the Senate that the Federal Government has a responsibility to—
(A) endeavor to raise public awareness about ADHD; and
(B) continue to consider ways to improve access to, and the quality of, mental health services dedicated to the purpose of improving the quality of life for children and adults with ADHD; and
(5) calls on Federal, State and local administrators and the people of the United States to observe the day with appropriate programs and activities.

PEOPLE-TO-PEOPLE ENGAGEMENT IN WORLD AFFAIRS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 194 and that the Senate proceed to its consideration.

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. 194) expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

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

Mr. McCONNELL. Mr. President, I understand there is a Feingold amendment at the desk. I ask the amendment be considered and agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, and that any statements be printed in the RECORD without intervening action or debate.

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

The amendment (No. 1829) was agreed to, as follows:

AMENDMENT NO. 1829
On page 3, line 8, to page 4, line 1, strike “in creating an online database that provides”, and insert “to make readily accessible.”

The resolution (S. Res. 194), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the majority whip be authorized to sign duly enrolled bills or joint resolutions.

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

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—HIGHWAY EXTENSION

Mr. McCONNELL. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, when the Senate receives from the House a short-term highway extension, the text of which is at the desk, the bill be considered read the third time and passed and the motion to reconsider be laid upon the table, all without any intervening action or debate.

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

MEASURE PLACED ON THE CALENDAR—H.R. 1797

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The leader is correct. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1797) 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 hydro-power by the Grand Coulee Dam, and for other purposes.

Mr. McCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. The objection is heard. The item will be placed on the calendar under rule XIV.

ORDERS FOR THURSDAY, JUNE 28, 2005

Mr. McCONNELL. Mr. President and colleagues in the Senate, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, July 28. 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 the Senate begin a period of morning business for 1 hour, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee. I further ask that following morning business, the Senate resume consideration of S. 397, the gun liability bill.

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

PROGRAM

Mr. McCONNELL. Tomorrow, the Senate will continue its consideration of the gun liability bill. Under an agreement reached this evening, we will debate and vote on the Kohl amendment on trigger locks. That vote will occur before lunch tomorrow. As a remainder, first-degree amendments must be filed by 1 p.m. tomorrow afternoon. We will have a cloture vote on the pending legislation, and we will announce the exact timing of that vote tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:40 p.m., adjourned until Thursday, July 28, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
KEITH E. GOTTFRIED, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE RICHARD A. HAUER, REPELLED.

DEPARTMENT OF STATE
ALFRED HOFFMAN, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

DEPARTMENT OF EDUCATION
MARK S. SCHNEIDER, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009, VICE ROBERT L. LOCHNER.

EXECUTIVE OFFICE OF THE PRESIDENT
HEATHER K. MAIDAS, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE ANDREA G. BARTWELL.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE
DIANE RIVERS, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPiring JULY 19, 2009, VICE JACK E. HIGHTOWER, TERM EXPIRED.

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPiring JULY 19, 2009, REAPPOINTMENT.

BERNADETTE Y. MCCARTHY, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPiring JULY 19, 2009, REAPPOINTMENT.

KEITH E. GOTTFRIED, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VICE RICHARD A. HAUER, REPELLED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12201:

To be brigadier general

COL. EROL R. SCHWARTZ, 0000
Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 19, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present:


Mr. OXLEY. Mr. Speaker, I was absent from the floor during rollcall 424 through rollcall 431 taken yesterday. Had I been present, I would have voted “no” on rollcall 424 (the Kind Amendment to H.R. 525); “no” on rollcall 425 (the George Miller motion to recommit H.R. 525); “aye” on rollcall 426 (final passage of H.R. 525); “aye” on rollcall 427 (final passage of H.R. 2894); “no” on rollcall 428 (the Pence Amendment to H.R. 22); “aye” on rollcall 429 (the Flake Amendment to H.R. 22); “aye” on rollcall 430 (final passage of H.R. 22); and “aye” on rollcall 431 (final passage of H.R. 3339).

Ms. MATSUI. Mr. Speaker, I rise in tribute to Dr. William W. Tipton, Jr., a man whose achievements are truly a great inspiration. I of Sacramento’s most honorable citizens. His example would do well to follow his example.

Throughout his illustrious career in mediicine, Bill enjoyed many personal accomplishments. However, his focus always remained on the health and well being of his patients.

For over two decades, Bill was an active member of the American Academy of Orthopedic Surgeons. From 1994–2003, he led the AAOS, serving as Executive Vice-President & Chief Executive Officer. He then served as AAOS Medical Director from 2003–2004.

One of Bill’s proudest accomplishments at the Academy was the creation of “Healthy Athlete’s Initiative,” which provides medical screening for participants in the Special Olympics. He also, more recently, helped the Academy realize the program “Legacy of Heroes,” a film chronicling the contributions of the surgeons of World War II and the influence they have had on modern medicine. The film was aired on PBS and was distributed through the Academy as a DVD.

Although Bill left us at far too young of an age, he made the most of every day that he spent on this earth. There was nothing in life that he wanted to do that he didn’t do. All of us would do well to follow his example.

Mr. Speaker, as Dr. William W. Tipton’s friends and family gather to honor this great American, I am honored to pay tribute to one of Sacramento’s most honorable citizens. His achievements are truly a great inspiration. I ask all of my colleagues to join me in acknowledging Bill’s invaluable contributions to Sacramento and the United States of America.

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the 52nd anniversary of the Cuban Revolution on July 26. It was on this day 52 years ago that Fidel Castro and a band of young men and women initiated a revolutionary struggle against the US-backed Batista regime. On this day in 1953, Fidel Castro led a small group of rebels in an attack on the Moncada military barracks in Santiago de Cuba. While the attack was a military failure, it signaled the beginning of the Cuban revolution which ultimately succeeded in overthrowing the Batista regime and establishing a communist regime led by Fidel Castro which, despite enduring hostility of the government of the United States has ruled the island for forty-six years.

Today, as we observe the new familiar pictures of Fidel Castro speaking to throngs in Revolutionary Square still in power after all these years, we need to examine the role U.S. policy has played in keeping him there.

I have long opposed U.S. policy towards Fidel Castro and Cuba, specifically the embargo, as I strongly believe that restricting travel and trade is a failed policy that harms the people of Cuba, and works against the promotion of democracy on the island. It also denies citizens of the United States the fundamental right and freedom to travel where they want and now denies Cuban Americans to visit their relatives living in Cuba.

In Cuba today, you will not find a Fidel Castro weakened by our 45-year embargo, but a Cuban leadership solidified by what can only be thought of as bullying tactics by the world’s strongest superpower against one of our hemisphere’s poorest nations which its people believe is being made to suffer because of its opposition to the United States.

I believe that the embargo has had the opposite of its intended effect. It has actually prolonged Fidel Castro’s rule and continues today to be effectively used by him to distract the Cuban people from the failures of his policies by having them focus upon the embargo as the source of the hardships they are enduring. This will not be a happy anniversary for the Cuban people because of worsening economic conditions and increasing political repression, but Fidel will still receive applause from the Cuban people because of worsening economic conditions and increasing political repression, but Fidel will still receive applause when he blames the U.S. embargo.

Current United States policy toward Cuba is markedly out of touch with current world realities. Almost every nation has normal trade and diplomatic relations with Cuba, especially those nations in the Western Hemisphere.

Even in the Cuban-American refugee community, whose older members remain bitter about Fidel Castro and fiercely opposed to loosening sanctions, the younger members are beginning to support U.S. engagement with Cuba instead of confrontation. However, under the Bush administration the 45-year old embargo, has been further tightened, severely limiting travel to Cuba and the transfer of funds to family members on the island.

The new rules permit Cuban Americans to visit the island once every three years—and then only if they can get a license to travel from the Treasury Department. Additionally the White House has also restricted remittances. Under the changes, Americans are permitted to send cash only to a Cuban child, parent, sibling or grandparent—but not to cousins or nephews.

If you were to visit Cuba today you will not find people inspired by our embargo aimed at
As it stands our policy toward Cuba is one that severely limits the availability of medicine and medical supplies to the Cuban people. It is a policy that denies U.S. citizens the right to travel where they choose. It is a policy that prevents Cuban and American diplomats from establishing important channels of communication to improve our relationship and prevent misunderstandings.

It is a policy that denies American companies and businesses access to an important new market for American goods, services, and ideas. It is a policy that prohibits a country ninety miles from our shores from being a partner in our global effort to thwart terrorism, to counter drug traffickers, or protect our overlapping ecosystems. Most importantly however, it is a policy that has proven itself ineffective for more than 40 years.

The Cuban people are the ones who are suffering and it is a policy that puts politics aside and work on developing a new foreign policy standard in regards to Cuba. Developing a relationship with Cuba is an important foreign policy goal and in order to achieve this goal a new and rational approach to relations between our countries is urgently needed, based on dialogue and increased trade. I introduce in the RECORD an article from today’s Miami Herald reporting on the circumstances in Cuba on the eve of the celebration of the 52nd anniversary of the start of the Cuban revolution.

(From the Miami Herald, July 26, 2005)

**PATIENCE WEARS THIN ON EVE OF JULY 26**

Several Cuban dissidents remained in detention as the government scaled back plans for festivities commemorating the start of the revolution.

(By Nancy San Martin)

When Cuban leader Fidel Castro takes to the microphone today to commemorate the 52nd anniversary of an attack that marked the start of his revolution, many on the island will cling to words that promise a change of course, exhausting the patience of an already exasperated population.

Human-rights activists on the island have said that “temper is flaring” as the country continues to struggle with extended blackouts and a shortage of food, made worse by Hurricane Dennis.

Meanwhile, 10 of as many as 33 dissidents arrested last week spent their third day in custody Monday, opposition leaders in Havana reported. They were detained as they tried to participate in an anti-government protest in front of the French Embassy in Havana. And while the European Union joined the United States in condemning the arrests, leaders of the opposition movement on the island began plotting their next move to bring international attention to their plight.

“The detentions are completely arbitrary,” said prominent dissident Martha Beatriz Roque, who was released from custody Saturday without charges. “We cannot allow the government to continue to treat us this way.”

“There must be a response, not only from the opposition but from everybody,” Roque told The Herald in a telephone interview, de- rided and embittered by U.S. policies that have wrecked havoc on the island and killed 16) Hurricane Dennis (a disastrous force that continues to struggle with blackouts and a shortage of food, made worse by Hurricane Dennis.

We should move towards a policy of active engagement with the people of Cuba, encouraging travel and visits to the island of all Americans who wish to go. The very presence of a significant number of U.S. citizens affluent and free will be an opponent to the Castro regime and will serve as a contrast that will sharpen the realization of the Cuban people of the failure of Communism to provide them with an economic system which can get them out of the poverty which afflicts most of the Cuban people. Visiting U.S. citizens will inevitably place enormous pressure on the Castro regime.

As it stands our policy toward Cuba is one that severely limits the availability of medicine and medical supplies to the Cuban people. It is a policy that denies U.S. citizens the right to travel where they choose. It is a policy that prevents Cuban and American diplomats from establishing important channels of communication to improve our relationship and prevent misunderstandings.

It is a policy that denies American companies and businesses access to an important new market for American goods, services, and ideas. It is a policy that prohibits a country ninety miles from our shores from being a partner in our global effort to thwart terrorism, to counter drug traffickers, or protect our overlapping ecosystems. Most importantly however, it is a policy that has proven itself ineffective for more than 40 years.

The Cuban people are the ones who are suffering and it is a policy that puts politics aside and work on developing a new foreign policy standard in regards to Cuba. Developing a relationship with Cuba is an important foreign policy goal and in order to achieve this goal a new and rational approach to relations between our countries is urgently needed, based on dialogue and increased trade.

I introduce in the RECORD an article from today’s Miami Herald reporting on the circumstances in Cuba on the eve of the celebration of the 52nd anniversary of the start of the Cuban revolution.
and Herzegovina, Finland, Austria, and Portugal are just a handful of the countries that already guarantee non-discrimination based on sex in their constitutions. It is time we join their ranks.

Alice Paul used to say, "When you put your hand to the plow, you can’t put it down until you get the plow over the row."

For Alice and Elizabeth, for Sojourner and Lucretia, for our foremothers, our grandmothers and our daughters, let us put our hands to the plow and pass the ERA.

IN MEMORY OF CORPORAL TYLER SETH TROVILLION, USMC

HON. PETE SESSIONS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor Marine Corporal Tyler Seth Trovillion, an American hero who lost his life in defense of liberty and freedom. He made the ultimate sacrifice so that others might know freedom, and I am humbled by his bravery and selflessness.

Corporal Tyler Trovillion was killed on June 15, 2005 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was 23 years old. CPL Trovillion was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force at Camp Pendleton, CA and was operating with the 2nd Brigade Combat Team, 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division, I Marine Expeditionary Force. During his funeral service, CPL Trovillion was remembered as a fun-loving, hard working man who lived his life not for himself, but for others. He was a man filled with the joy of living, and we celebrate the life he lived as a son, brother and friend.

CPL Trovillion is survived by his parents, Mark and Gina Trovillion, sisters, Austin and Skye, brother Jazak and fiancée, Rachel Walker.

I can only imagine the immense pride they feel knowing that CPL Trovillion fought for what is just and right in our world. He leaves behind a legacy marked by courage, integrity and character. It was an honor and a privilege to represent this man in Congress. May God bless all those he loved, and may I convey to them my sincerest condolences and the gratitude of the American people.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR.
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 21, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present:

Vote No. 401—Previous Question—"aye."
Vote No. 402—Adoption of the Rule for H.R. 3199—USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005—"aye."
Vote No. 403—Flake/Schiff Amendment—"aye."
Vote No. 404—Issa Amendment—"aye."
Vote No. 405—Capito Amendment—"aye."
Vote No. 406—Flake/Delahunt/Otter/Nadler Amendment—"aye."
Vote No. 407—Delahunt/Flake/Otter Amendment—"aye."
Vote No. 408—Flake/Otter Amendment—"aye."
Vote No. 409—Berman/Delahunt Amendment—"nay."
Vote No. 410—Schiff/Coble/Forbes Amendment—"aye."
Vote No. 411—Hart Amendment—"aye."
Vote No. 412—Jackson-Lee Amendment—"nay."
Vote No. 413—Likely Democrat Motion to Recommit—"nay."
Vote No. 414—Final Passage of H.R. 3199—USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005—"aye."

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

SPEECH OF
HON. JOSEPH R. PITTS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. PITTS. Mr. Speaker, before 2002, the government funded the approval process for pacemakers, catheters, defibrillators, contact lenses, hip prosthetics, and other medical devices using only taxpayer funding.

This publicly funded process was a mess. It significantly delayed Food and Drug Administration approval of new, life-saving medical devices and prevent patients from benefiting from this new technology. To end this delay, Congress unanimously passed The Medical Device User Fee and Modernization Act in 2002. MDUFTMA overcame obstacles at the FDA that prevent timely approval of new life-saving medical technologies without compromising the safety of consumers.

Modeled after a similar program used to approve new medicines and pharmaceuticals, MDUFTMA created a stable funding base for the FDA. It combines industry paid user fees and Congressional appropriations. As a result,
the device approval time has been virtually cut in half. The program proved very popular among companies making these devices and the patients who have benefited from them.

However, Congress built a trigger into the law. The trigger sun-sets the program on September 30, 2005. Congress fails to appropriate the amount authorized under the 2002 law. Congress provided the $216.7 million required in fiscal year 2005. But in 2003 and 2004, Congress shortchanged MDUFMA by $40 million. That shortfall will cause MDUFMA to expire on September 30th. We cannot allow that to happen. Too much is at stake.

H.R. 3243 renews MDUFMA for two years and brings some much-needed stability to the program. In 2007 we will revisit a full reauthorization of MDUFMA and fine-tune the program.

I urge my colleagues to support this bill. I'd like to thank my colleague, the gentlewoman from California, Ms. ESHOO, for her hard work on this legislation.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

SPEECH OF HON. DEBORAH PRYCE OF OHIO IN THE HOUSE OF REPRESENTATIVES Tuesday, July 26, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 22) to reform the postal laws of the United States:

Ms. PRYCE of Ohio. Mr. Chairman, I rise in support of the Chairman's amendment to the Postal Accountability and Enhancement Act to address important mailings to consumers containing notification of a data breach affecting personal information. While I withdrew my amendment, I was pleased to work with the Chairman of the Government Reform Committee to include report language regarding this significant issue. I thank both Chairmen for their hard work on this bill.

Mr. Speaker, I rise today to bring attention to the important issue of data security.

Identity theft is the fastest-growing white-collar crime in the United States. The Federal Trade Commission estimates that 10 million Americans fall victim to identity theft each year, costing consumers and businesses more than $55 billion.

Identity theft is the most frequent complaint to the FTC from all 50 states, with the number of complaints having grown for the fourth consecutive year.

What takes only seconds for a hacker to destroy can take years for companies and individuals to repair. A thief can jeopardize a person's financial security by opening new lines of credit or procuring unsecured loans under a person's name.

Victims of identity theft spend an average of 90 hours of their own time and 1,700 dollars in out-of-pocket expenses clearing their credit and name.

The first line of defense in combating these reckless acts is to make the victims aware of what is taking place. If there is unauthorized access to sensitive financial information, the breach can have many needs to notify the potentially affected consumers, and make them aware that their data security may have been compromised.

A BILL TO MAKE THE ADVISORY COMMITTEE ON MINORITY VETERANS PERMANENT

HON. LUIS V. GUTIERREZ OF ILLINOIS IN THE HOUSE OF REPRESENTATIVES Wednesday, July 27, 2005

Mr. GUTIERREZ. Mr. Speaker, today I am introducing legislation that is vital to the interests of minority veterans in our Nation. Current law mandates the termination of the Advisory Committee on Minority Veterans, ACMV, on December 31, 2009. My bill would simply repeal the provision of law that discontinues this important committee's mandate so that its critical work on behalf of minority veterans can continue.

The Advisory Committee on Minority Veterans operates in conjunction with the VA Center for Minority Veterans. This committee consists of members appointed by the Secretary of Veterans Affairs and includes minority veterans, representatives of minority veterans groups and individuals who are recognized authorities in fields pertinent to the needs of minority veterans.

The Advisory Committee on Minority Veterans helps the VA Center for Minority Veterans by advising the Secretary on the adoption and implementation of policies and programs affecting minority veterans, and by making recommendations to the VA for the establishment or improvement of programs in the department for which minority veterans are eligible.

The committee has consistently provided the VA and Congress with balanced, forward-looking recommendations, many of which go far beyond the unique needs of minority veterans. In 2002, the committee met in my hometown of Chicago and warned that in the Chicago regional office "it was mentioned that it would be much easier to deny benefits than to grant benefits because of stringent requirements of VBA and Court of Appeal for Veterans Claims."

Two years later, the Chicago Sun-Times exposed that Illinois veterans ranked 50th in disability benefit compensation. That information sparked a campaign by the Illinois congressional delegation to rectify the situation. Since then, the VA Inspector General has issued his report and recommendations and the Secretary has pledged additional staff and resources to the Chicago regional office.

The committee will also be needed in the future since the unique concerns of minority veterans will become increasingly important for our Nation during the next decade.

Currently, 18 percent of the troops serving in Iraq and African-Americans, while 10 percent are Hispanic. The concerns of these veterans and others will not go away on December 31, 2009, and neither should the committee create to ensure that they are represented. The Advisory Committee on Minority Veterans has helped our minority veterans from past wars with programs to address their concerns. We should not shortchange our newly returning soldiers by allowing this committee's tenure to expire.

Many specific issues of concern to minority veterans need to be addressed further. Minority veterans confront the debilitating effects of post-traumatic stress disorder, PTSD, and substance abuse in greater numbers. Minority veterans suffer from a higher incidence of homelessness. Access to health care for Native American veterans is also a common problem. In addition, access to adequate job training is a difficulty for many minority veterans, a high percentage of whom qualify as low-income, category A veterans.

Unfortunately, discrimination and cultural insensitivity remain problematic for minority veterans at many VA facilities. The Advisory Committee on Minority Veterans still has a lot of work to do, and I urge my colleagues to support this legislation to make this important committee permanent.

PERSONAL EXPLANATION

HON. HENRY E. BROWN, JR. OF SOUTH CAROLINA IN THE HOUSE OF REPRESENTATIVES Wednesday, July 27, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I am writing to notify you that I was absent July 22, 2005. The reason for my absence was that I had to have an emergency appendectomy at the Bethesda Naval Hospital.

Regarding the votes that I missed please see below for the way that I would have voted had I been present: Vote No. 415—Velázquez No. 3 amendment—"aye" and vote No. 416—final passage of H.R. 3070—NASA Authorization Act of 2005—"aye."

CELEBRATING ANNE SPEAKE'S SERVICE TO THE CENTRAL VALLEY OF CALIFORNIA

HON. GEORGE RADANOVICH OF CALIFORNIA IN THE HOUSE OF REPRESENTATIVES Wednesday, July 27, 2005

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Anne Speake for the service she has given to the Central Valley of California and to recognize her 75th birthday on August 8, 2005. Mrs. Speake has dedicated much of her life to helping the citizens of Fresno and to promoting small business.

Anne Speake, the founder and President of International English Institute, is widely recognized as an authority on overseas marketing.
For 22 years, she traveled extensively in Europe, the Middle East, Asia, and South America to promote IEI. During this time, the school enrolled over 40,000 students, some of whom are heads of state and leaders in worldwide businesses. In 2001, she joined her husband, Mike Hamzy, as President of Harbison International, Inc.

Currently, she serves on the Board, Executive Committee, and Air Quality Task Force of the Fresno Business Council. She is also Chair of the Fresno Revitalization Corporation and serves on the boards of FRESpac and the CSUF Business Advisory Council. She is a member of the Fresno Rotary Club, the Forum, and the Owls Club.

She previously served as President on the boards of the Greater Area Chamber of Commerce, the Fresno Convention and Visitor’s Bureau; and the CSUF Business Associates. She has served on the boards of the EDC, Fresno Art Museum, Compact, CSUF Alumni and Friends, and the New United Way. She was Vice President of the National Associate of Arab Americans and Co-Chair of the Commission on the Future of Education for Fresno County. I appointed Anne as a delegate to the California Republican Party, where she has served since 1995. In the same year, she was appointed as a delegate by Gov. Pete Wilson to the Small Business Committee on Government. He also appointed her to the California Council to promote Business Ownership by Women.

In 1990, IEI received the U.S. Small Business Administration’s “Business of the Year in California” award. In 1991, IEI won the “Business Enterprise of the Year” award for outstanding contributions to Fresno’s economy and for business excellence. In 1993, Mrs. Speake was presented the Baker, Peterson, & Franklin “Top 5 Award for Excellence.” Mrs. Speake was awarded the CSUF Sid Craig School of Business “Alumni of the Year Award” for 1994. In 1998, the U.S. Small Business Administration recognized Mrs. Speake as the Central California Women in Business Advocate of the Year, and the National Honor Society made her an Honorary Beta Gamma Sigma. In February 2000, Mrs. Speake was the Leon S. Peters Award recipient for a career of outstanding business leadership in community service.

Mr. Speaker, I rise today to celebrate the achievements of Anne Speake. I urge my colleagues to join me in honoring this remarkable woman and the contributions she has made to small business and the city of Fresno.

TRIBUTE TO JAMES R. PARKER

HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mrs. BLACKBURN. Mr. Speaker, it is a privilege to rise today to thank James R. Parker for more than three decades of service to the Nation.

A dedicated employee of the Federal Government, James will be retiring from the Social Security Administration at the end of July. For years now, we’ve been able to count on James to help make government work better for all of us.

While I’m thankful for James and his service, we’ll miss the knowledge, compassion and tremendous work ethic he brought to every task. Tennessee is proud of James, and we all wish him and his wife, Patricia, a wonderful retirement.

THE DEATH OF RYAN KOVACICEK

HON. TIM MURPHY
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. MURPHY. Mr. Speaker, I would like to take this time to pay tribute to Lance Corporal Ryan J. Kovacicek of Washington, Pennsylvania, part of the 18th Congressional District. Lance Corporal Kovacicek was killed July 10th from a mortar attack in the town of Hit, located in western Iraq. He died alongside Sergeant Joseph P. Goodrich, another member of his unit from Pittsburgh.

Just 22 years old, Lance Corporal Kovacicek was a member of Kilo Company, 1st Marine Forces Reserve unit based in Moundsville, West Virginia. Like so many other young men and women in our reserves, Kovacicek was a student. A junior at Indiana University of Pennsylvania, he was studying criminology and played on the hockey team. He also lettered in hockey all four years he attended Bishop Canevin Catholic High School.

Following in a long tradition of military service in his family, Lance Corporal Kovacicek enlisted in the reserves to help defend his country. His father, Joseph, served in Vietnam as a Marine, while his grandfather, Paul Karpan, fought with the Army in Europe during World War II. Understanding the true meaning of patriotism, Lance Corporal Kovacicek paid the ultimate sacrifice. Our thoughts and prayers go out to his family. God bless them, and all the members of the armed forces fighting the war on terror, and their families.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

SPEECH OF
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. KUCINICH. Mr. Speaker, I thank Mr. Miller for his leadership on this bill. Mr. Speaker I rise in strong opposition to H.R. 525, Association Health Plans cherry-pick. They lower standards of care. They fail to reduce the growing costs of the problem. But I would like to focus on a critical shortfall we don’t hear much about: Efficiency.

AHPs fail to address the white elephant in the living room. One of the biggest reasons why America’s health care costs are so high is that we pay far more for administrative costs in privately administered health plans than other industrialized nations. The average private health plan puts $12–15 percent—sometimes as high as 30 percent—of your health care dollar to administrative costs. AHPs would not only fail to address this problem, but could make it worse.

In fact, a study by human resources consultants, William Mercer, Inc. found that “… the potential administrative cost increases typically would exceed the potential administrative cost savings. We estimate that the additional costs for small firms who buy AHP coverage typically would range from 1.5 percent to 5 percent of premiums.” That is above and beyond the average administrative costs of 12-15 percent.

Now contrast that with the overhead costs of Medicare, whose 40th birthday we celebrate this week. On average, Medicare’s administrative costs are 2–3 percent. That means that Medicare is about 5 times more efficient than private health plans and could be 7 to 10 times more efficient than AHPs.

Health care costs are dragging small businesses down in their efforts to compete with their counterparts in other nations where health care is universal. It is time to stop dancing around the margins of reform by proposing more of the same inefficiencies. We already know what works. Let’s expand Medicare to all.

HONORING JR. JOSE CESLO BARBOSA
OF PUERTO RICO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. MURPHY. Mr. Speaker, today it is my special privilege to render tribute to a great American and a great Puerto Rican on the 148th commemoration of his birth. Dr. Jose Celso Barbosa was born in Bayamón, Puerto Rico on July 27, 1857, when Puerto Rico was still a colony of Spain. In 1876 he traveled to the United States to continue his studies, and in 1880 he graduated from the University of Michigan with a degree in medicine, first in his class, and a member of a very distinguished medical graduating class that included the Mayo brothers of Mayo Clinic fame. Dr. Barbosa was the first Puerto Rican to graduate from the prestigious University of Michigan.

Upon returning to Puerto Rico, Dr. Barbosa dedicated himself to his private medical practice, became a professor of medicine at one of the institutions of higher learning in Puerto Rico, and made his first incursion in political issues, becoming a firm defender of negotiating increased autonomy for Puerto Rico from Spain.

With the change in sovereignty in 1898, in which Puerto Rico was ceded to the United States after the Spanish-American War, Dr. Barbosa envisioned the Federalist system of the United States as the ideal solution to the colonial problem of Puerto Rico, declaring himself an advocate of admitting the Island as a state of the Union. With that lofty purpose in mind, he formed the Republican Party of Puerto Rico on July 4, 1899.

Dr. Barbosa was the founder of the newspaper “El Tiempo”, for which he wrote numerous articles in defense of his goal to have Puerto Rico become a state of the Union. When the United States allowed for the formation of a Senate at the local level in 1917, Dr. Barbosa was elected as a member of that legislative body. He was reelected in 1920. During his stint in the Senate, Dr. Barbosa introduced legislation allowing for trial by jury and introducing the writ of “Habeas Corpus” within the Judicial Penal System of Puerto Rico.
After a distinguished career as a doctor, teacher, politician, and humanitarian, Dr. Barbossa passed away on September 21, 1921, without reaching his dream of having Puerto Rico become a State of the Union, but proud to have become a citizen of the United States in 1917.

On statehood for Puerto Rico, Dr. Barbossa said: “Puerto Rico aspires to reach all the rights granted by U.S. Citizenship, in the same method, in the same manner, under the same form, and under the full integrity as the one enjoyed by the residents of any of the regions that are part of the United States of the American Union. To that we aspire, that is what we want, that is what we shall have.”

On the political relationship between Puerto Rico and the United States, Dr. Barbossa made the following statement: “We want, and we ask, for equality. Not colonialism or protection. Since the American Flag first waved over Puerto Rico, those have been the ideals that we have defended.”

Dr. Barbossa’s lifelong dream was to have Puerto Rico admitted as a State of the Union. I share that dream, and I find no better way of honoring him today, than to pledge to pursue his goal, to the best of my ability, of having Puerto Rico become an integral part of this great Nation.

IN HONOR OF THE MOSES AND AARON FOUNDATION SPECIAL FUND FOR CHILDREN

HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. NADLER. Mr. Speaker, I rise today to honor the Moses and Aaron Foundation Special Fund for Children, a truly distinguished organization that assists children with disabilities and their families.

Created in the memory of Rabbi Dr. Maurice I. Hecht and Aaron Kaploun, the foundation has kept alive Dr. Hecht and Mr. Kaploun’s commitment to community service through counseling, guidance, wheelchair assistance, and financial assistance to those families with special children.

I believe that the foundation’s work is a shining beacon of light for children in need. Examples of such work include providing educational scholarships, clothing and presents.

In addition, the Moses and Aaron Foundation under the direction of its President Rabbi Yaacov Kaploun, and Executive Vice President Yehuda Kaploun, in cooperation with Bally Fitness Centers, has established 27 therapy and physical fitness centers and has arranged for sound and musical equipment in other institutions.

As the foundation hosts its 9th annual Chazak Concert for Special Children on August 20, 2005, we are again reminded of all that the Moses and Aaron Foundation has contributed to the greater American community. For the past 8 years, the Motzei Shabbat Nachamu Concert, at Sullivan Community College Field House in Loch Sheldrake, New York, has benefited special children and their families as well as offering them an enjoyable night of music, dancing and plain good fun.

The concert will honor and pay tribute to the special and outstanding children who will be the guests of honor and will perform with the entertainers on stage. More than 40 organizations and schools serving the physically and mentally disabled children will be represented.

The Chazak Concert in connection with the many other programs operated by the Moses and Aaron Foundation demonstrates a caring and compassionate concern for the quality and dignity of life of those in need, and therefore merits appreciation.

I would also like to applaud the Honorary Chairman and Nobel Laureate Elie Wiesel, President Rabbi Yaacov Kaploun and Executive Vice President Yehuda Kaploun for their hard work and commitment to children of special needs and their families.

I pause to commemorate the recent passing of Mrs. Tzippora Kaplour of Jerusalem, Israel, wife of the late Aaron Kaploun. She instilled in her children, grandchildren and great grandchildren the importance of community service and a compassion for those individuals who require the assistance and support of those who are blessed with ability to provide and assist. She exemplified the principles upon which the Foundation is based.

I recognize Mr. Jerry Rothman, recipient of the Dr. Steven Stowe Acts of Kindness Award and remember fondly his late wife Anita Rothman, whose acts of charity impacted the lives of many in the course of their 65 years of marriage. We remember the social service and kindness of the late Issac Weinberger who recently passed, and his wife Anne Weinberger.

As the Moses and Aaron Foundation Special Fund for Children commemorates this special event, I urge my colleagues to join me in paying tribute to an organization that provides such an essential service to the community and truly exemplifies the generosity of Americans.

HONORING THE SERVICE OF TOMMY MAGGIO

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. DINGELL. Mr. Speaker, I rise today in honor of my friend Tommy Maggio, who, after 32 years of service to this institution, will be retiring at the end of the month.

Thomas P. Maggio was born April 28, 1929 and raised in Washington, DC. Tommy served our Nation in the Navy, from 1951 to 1955. Serving in Norfolk, VA and Green Coast Springs, FL, Tommy was stationed on the USS Whitey, and was part of a marching band. Tommy married his wife Anita in 1963; she too will be retiring after many years of service in my colleague Congresswoman Ileana Ros-Lehtinen’s office.

For many of us, Tommy provides a warm greeting in the morning, as well as wonderful conversation. Every morning when I see him, I call out to Tommy, “Bonjeourno, Bonjeourno,” to which he replies “Bonjeourno, bonjeourno.” I cannot help but enjoy this warm Italian greeting. Tommy is loved by all of the members he serves. We wish Tommy well and we all deeply appreciate his dedicated and decent service. I will certainly miss him, and I wish Tommy and his family many good years, filled with family, friends and good health. On behalf of myself, as well as the entire House of Representatives, I wish Tommy and his family good health and happiness. Thank you, Tommy.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

SPEECH OF HON. RUSH D. HOLT
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

The House in Committee of the Whole House on the State of the Union had under
consideration the bill (H.R. 22) to reform the postal laws of the United States, with Mr. SIMPSON in the chair.

Mr. HOLT. Mr. Chairman, I rise today in support of H.R. 22, The Postal Accountability and Enhancement Act.

In 1775, Members of the Second Continental Congress established the Post Office Department, the predecessor of the Postal Service and the second oldest federal department or agency in the United States. For the past two centuries, the United States Postal Service has evolved and changed as the United States has grown. Today the Postal Service delivers hundreds of millions of messages each day to more than 141 million homes and businesses. Still, the Postal Service is experiencing economic loss because of the decrease in first class mail volume due to the high usage of e-mail and faxes and the increase in operating costs as the number of addresses to which the Postal Service must deliver are growing everyday.

For the past couple of decades, Members of the House Government Reform Committee have worked together to create legislation to reform the Postal Service. The bill that we have before us today is a compilation of hard work and bipartisan effort that includes a variety of interests such as large financial mailers, mail-dependent businesses, magazine publishers, postal competitors, unions and consumer organizations. H.R. 22 provides for a comprehensive overhaul of the financial operations, rate structure, and civil service policies that currently govern the United States Postal Service. It is important to note that this bill today is not only a work of bipartisan congressional action, but it is the product of labor and management, postal employees and businesses, working together to make compromises to make postal reform a reality.

Protecting collective bargaining rights, ensuring six-day a week postal delivery and demanding that postal workers receive the best federal employee healthcare are all important provisions that were included in this bill to benefit postal workers. H.R. 22 is a tribute to the countless letter carriers and postal employees who have committed for many years to reforming the USPS. I have spent hours walking mail routes with the letter carriers in my home state of New Jersey. I have seen first hand how dedicated postal employees are to ensuring the timely and safe delivery of mail to their local communities. These letter carriers should be applauded for their service to all Americans.

I am proud to have been a cosponsor of the Postal Accountability and Enhancement Act and am pleased that my colleagues have finally brought this to the House floor. The Postal Service has been around since 1775. It has come a long way since the days of the Pony Express and steamboats and despite the fact that e-mail and online bill paying are becoming increasingly popular, the United States Postal Service remains more vital than ever.

I stand here today to deliver a heartfelt thank you to the men and women of the United States Postal Service. I think sometimes we take their efforts for granted. Their work is not only stressful at times, but it is their efforts in keeping all of our correspondence flowing smoothly that provides the glue that hold our communities together. The closing of a Post Office can be devastating to a small rural community, so I understand the importance of the preservation of this service. I feel strongly that my colleagues and I did a good thing last night when we passed the Postal Accountability and Enhancement Act. I urge all of my colleagues as well as every American to take the time out of the day and thank their local letter carrier or postmaster the next time they see them. In closing, I would like to thank all of the postal employees in the 15th district for their part in strengthening our communities. Their efforts are sincerely appreciated.

Mr. Speaker, I rise today to pay tribute to the hardworking postal employees around the country and especially in my district. In the wake of passing the first postal reform bill in three and a half decades, I believe it is only appropriate to acknowledge the hard work and tireless effort of postal employees.

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I urge all of my colleagues as well as every American to take the time out of the day and thank their local letter carrier or postmaster the next time they see them. In closing, I would like to thank all of the postal employees in the 15th district for their part in strengthening our communities. Their efforts are sincerely appreciated.

Mr. Speaker, I rise today to pay tribute to the hardworking postal employees around the country and especially in my district. In the wake of passing the first postal reform bill in three and a half decades, I believe it is only appropriate to acknowledge the hard work and tireless effort of postal employees.

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General Nyland subsequently served as section chief for the Central Command section, European Command/Central Command Branch, Joint Operations Division, Directorate of Operations (J-3), Joint Staff, Washington, D.C. In July 1990, he assumed command of Marine Aviation Training Support Group (MATSG), Pensacola. Following his command of MATSG he assumed duties as Chief of Staff, 2d Marine Aircraft Wing on July 5, 1992 and assumed additional duties as Assistant Wing Commander on November 10, 1992. He was promoted to Brigadier General on September 1, 1994 and was assigned as Assistant Wing Commander, 2nd MAW serving in that billet until December 1, 1995.

He next served as the Joint Staff, J-8, as the Deputy Director for Force Structure and Resources, completing that tour on June 30, 1997. General Nyland was advanced to Major General on July 2, 1997, and assumed duties as the Deputy Commanding General, II Marine Expeditionary Force, Camp Lejeune, N.C. He served next as the Commanding General, 2d Marine Aircraft Wing, MCAS Cherry Point, North Carolina from July 1998 to June 2000. He was advanced to Lieutenant General on 30 June 2000 and assumed duties as the Commandant for Programs and Resources, Headquarters, U.S. Marine Corps. He next served as the Deputy Commandant for Aviation on 3 August 2001. He was advanced to the grade of General on September 4, 2002 and assumed his current duties shortly thereafter.

General Nyland's personal decorations include: Defense Distinguished Service Medal, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, the Air Medal with eight Strike/Flight awards, and Joint Meritorious Service Medal.

Throughout his career as a United States Marine, General Nyland has demonstrated uncompromising character, discerning wisdom, and a sincere, selfless sense of duty to his Marines and members of other services assigned to his numerous joint commands. His powerful leadership inspired the Marines to tremendous success no matter the task, and powerful leadership inspired the Marine Corps to be the most decorated fighting squadron, from July 1985 to July 1987.

General Nyland leaves a tremendous legacy for others. The Marine Corps will miss him, but General Nyland leaves a tremendous legacy for others to follow and emulate. I wish General Nyland and his lovely wife, Brenda, daughters, Brandi and Leslie, and son, Matthew, congratulations and all best wishes as they enter this new chapter of their lives.

COMPELLING SERIES ABOUT VA FUNDING SHORTFALLS IN NORTHWEST PAPER

HON. PETER A. DeFAZIO OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DeFAZIO. Mr. Speaker, I am placing an article from the July 25, 2005, Seattle Times newspaper into the Congressional Record because I think it is important that all of my colleagues understand the real world impact underfunding the VA is having on veterans suffering from mental disabilities.

To those who say that VA is adequately funded, I say read this article. Spending on VA PTSD patient load alone has increased from $2.16 billion to $2.4 billion. But when those budgets were adjusted for inflation—does the VA “do its best to stretch a dollar?”—they were reduced from twice to once a month, a cut that comes as thousands of Iraq war veterans suffering from mental disabilities.

During the same period, overall mental-health staffing for the seriously ill declined by 31 percent. Drug and alcohol treatment for the seriously mentally ill, often a critical part of the program for those seeking PTSD therapy, has been the hardest hit. Annual funding for the services climbed by 38 percent nationwide between 1996 and 2003.

“I’ve been a perfect storm of rising needs and tight resources,” said Tom Schumacher, who directs a Washington state effort to assist PTSD veterans. The Northwest VA network has fared better than most of the nation, avoiding many of the staff cuts that hit other regions.

But the four-state region that includes Washington, Oregon, Idaho and Alaska also is one of the busiest hubs of treatment. The PTSD patient load alone has increased from 3,194 in 1996 to 4,671 in 2004.

In July, the VA Puget Sound Health Care System, which serves veterans and dependents, reported that its PTSD patient load alone has increased from $2.16 billion to $2.4 billion. But when those budgets were adjusted for inflation—does the VA “do its best to stretch a dollar?”—they were reduced from twice to once a month, a cut that comes as thousands of Iraq war veterans suffering from PTSD join those of previous wars in seeking treatment from the strained VA.

“In can understand that the new veterans need to be dealt with,” said Chenoweth, 56. “But it’s going to be tough. Jack has been a lifesaver.”

The agency is required by law to take care of the war wounds of all combat veterans. But the agency’s PTSD experts, in a report delivered last fall to Congress, warned that the VA “does not have sufficient capacity to meet the needs of new combat veterans still providing for the veterans of past wars.”

The report showed the VA’s mental-health network has been frayed by years of staffing cuts and budgets that failed to keep pace with the growth in patients.

According to an internal review of the agency’s budget, delivered to Congress in September, problems have been years in the making. Between 1996 and 2003, annual spending for treatment of the serious mentally ill increased from $2.16 billion to $2.4 billion. But when those budgets were adjusted for inflation—does the VA “do its best to stretch a dollar?”—they were reduced from twice to once a month, a cut that comes as thousands of Iraq war veterans suffering from mental disabilities.

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For our Vietnam vets, we’re not going to turn our backs on them.”

Veteran therapists say while some veterans can handle less treatment, the more unstable ones may suffer setbacks.

“Some of them are devastated and feel like they have been abandoned one more time,” said Jim Shoop, a Mount Vernon counselor. He said his office is reducing service to more than 50 vets with PTSD.

Dr. Miles McFall, director of PTSD programs at the VA Puget Sound, said that more frequent therapy does not necessarily help, and those in trouble are welcome to check into an inpatient VA hospital clinic.

“Even if money was not an issue, this is what we should be doing,” he said. “We care about our Vietnam vets. We’re not going to turn our backs on them.”

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A LIFETIME OF TROUBLE

Soldiers have always suffered from the mental wounds of war.

But the diagnosis of post-traumatic stress disorder only emerged in 1970s. In the aftermath of the Vietnam War as tens of thousands of distraught veterans, suffering from flashbacks, sleeplessness, anger and other symptoms poured into VA.

By 1988, the VA estimated that 470,000 vets suffered PTSD symptoms.
For many of these vets, PTSD has meant a lifetime of trouble. Chenoweth served with the Marines in Vietnam from 1966 to 1969, when the U.S. sustained some of its heaviest casualties. He turned 18 just before boarding the plane to Asia and soon found himself fighting in villages where anybody could be the enemy.

Chenoweth and his tour of duty in a psychiatric hospital in Oakland. But it wasn’t until the late ’80s—after more than a dozen failed jobs, several more hospital stays and two broken marriages—that he was diagnosed with PTSD.

“The killing doesn’t stop,” Chenoweth said. “You taste it. And you feel it. It uses all your senses.”

The numbers of older veterans seeking mental-health treatment surged again in recent years, as new wars unfolded on television in Iraq and Afghanistan added to their stress.

That, coupled with the influx of soldiers returning from Iraq, has ratcheted up pressure on the VA system.

MORE BECOME ELIGIBLE

In the ’90s, the VA went through a dramatic overhaul, moving away from a centralization of health-care services. New clinics opened up around the country. Congress also loosened eligibility requirements, so that more vets qualified for services, and increased the overall health-care budget from $17 billion to more than $28 billion.

The transformation was lauded as a great success in an Annals of Internal Medicine article last year.

But mental-health services often lost out as regional administrators juggled budgets to pay for soaring caseloads, new services and pricey new drugs.

Managers also sometimes balked at pouring more money into treatment for illnesses of the mind when compared with physical illnesses that are often easier to measure and cure.

“I regret to report that there are stigmas in the VA about the mentally ill,” said Thomas Horvath, a psychiatrist who serves as chief of staff at the agency’s Houston medical center, told Congress in 2004.

“This, we may be no worse than the rest of health care. VA needs to do better.”

Sen. Patty Murray, who worked as a college intern in the Seattle VA psychiatric ward, said the congressional effort to boost funding for VA programs, including mental health.

“Some of the veterans are coming here after the suicide of a family member,” he said during a recent committee hearing.

The issue of VA funding has been rife with partisan politics recently.

VA administrators in June acknowledged a roughly $1 billion budget shortfall, prompting Senate Republicans to do an about-face and work with the VA to boost funding.

Congress is expected to approve an additional $975 million to $1.5 billion to help dig the agency out of the hole for this fiscal year.

If this money is evenly divided within the agency, mental health would receive less than 10 percent. That would require an infusion of as much as $1.6 billion, according to a draft of the agency’s strategic plan.

That estimate didn’t assess the added costs of treating new Iraq veterans.

JUST GOOD-ENOUGH CARE

There is no fixed formula for treating PTSD.

Instead, the VA offers general guidelines for addressing the illness. This treatment may involve drugs that aid sleep and reduce anxiety or help fight depression. It may include classes in anger management and other coping skills.

Finally, there is therapy, which often enables the vet to reconnect and come to terms with the past.

Some patients may benefit from just a few classes and counseling sessions. Others with chronic PTSD attend sessions for months or years. Some vets say others do much better with individual therapy. But as budgets have shrunk, some VA mental-health workers say, they have been pressured to treat more people in less time.

In Portland, the VA mental-health clinic staff by January had shrunk by 25 percent due to budget freezes, according to an internal staff newsletter. The newsletter described the Portland program as “unquestionably underfunded.”

Therapists in Portland earlier this year were asked to schedule individual sessions from 50 minutes to 30 minutes, and lengthen the time between visits, according to an internal VA memorandum.

They say they were asked to consider dropping some patients altogether, after re-filling their prescriptions and referring them back to primary-care physicians.

Megan Stewart, a VA spokeswoman, said the Portland VA does not expect staff to cut back services for patients who need therapy.

She also said that some jobs have been filled. “We are continuing our efforts to receive high-quality mental-health care,” Streight said.

But several Portland VA therapists expressed worries that expanding caseloads would result in less time with each patient, reducing effectiveness.

These therapists say they have been asked to try to complete treatment of new patients in 10 or fewer counseling sessions, even though they were told that was unlikely.

Some of the returning vets arrive at the VA with marriages already in turmoil or broken. Others have isolated themselves at home after returning to work. One, who came in after beating his wife, had penned a suicide note.

One therapist said she has been reluctant to stick several troubled Iraq vets in fire hose step classes of 20 or more that teach coping skills. But her own caseload already runs to several hundred patients, so she has no open spots for more one-on-one counseling.

To make room for the Iraq veterans, she asks some of her older veterans to come less often.

“But what kind of message is that—that you’re not as important as the new guys coming in,” she said.

The therapist says she needed to get used to the short-shrife therapy. “I was told that there needed to be some changes made at the hospital due to the lack of resources, and I was going to have to adjust to what my thinking was,” she said.

“You need to give Just good-enough care.”

The Puget Sound VA’s mental-health programs have also been caught in the region-wide budget crunch, with concern that veterans don’t have enough therapists. “We can get every Iraq veteran an appointment within a week,” he said.

But the local VA policy to limit treatment for veterans who have had six months of therapy has caused a backlash. The loudest protests have come from the state network of private-practice therapists who are paid by the VA to treat vets with chronic PTSD.

“I believe that in order to do long-term recovery, I have to do a lot of work,” said Steve Aker, a veteran who is an Everett therapist. Aker offers weekly group sessions, as well as individual counseling.

At the group sessions, the vets spend 90 minutes sharing hopes, fears and a few laughs before getting into a healing circle where they all grasp hands on a wooden staff known as a “talking stick.”

One veteran of both the Vietnam and Gulf wars still lives in the raider’s edge. At his house, he has installed a perimeter trip wire that sounds an alarm to warn of intruders, and outside lights that can turn midnight into a tongue along a 40-foot driveway.

The house is full of loaded guns, weapons his wife fears might be inadvertently used in a combat flashback.

“She doesn’t want the one under the bed, and in every room,” the vet said during the session. “But I’ve got to live with myself. I don’t feel secure.”

Aker opted to take things one step at a time, focusing on a pistol in a bedroom drawer.

“So, at one point, would you be willing to put the pistol in one drawer, and the ammo in another? You’ll still have your safety factor but have to think to react.”

“I could do that,” he responded. “But it will be really hard for me. When they break in that door, they’re only going to do it once.”

Under the new VA policy, the group’s weekly meetings will be reduced from twice a month to once a month.

Among the vets, that’s the subject of much bitter debate.

“I try not to take it personally,” said the veteran with the loaded gun. “There is an intimacy here that is incredible. I want to save it. And the fear, you know, that it’s not going to last.”

THE 2005 NEVADA CENTENNIAL RANCH AND FARM AWARD

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GIBBONS. Mr. Speaker, forever memorialized on our state seal, ranching and farming are two of Nevada’s traditions. The most storied of Nevada’s ranches and farms, some dating back to the mid-1850s, are being honored this month with the 2005 Nevada Centennial Ranch & Farm Award. From Minden to McDermitt, these families represent the best in Nevada agriculture.
To qualify to receive this prestigious award, a family must have been ranching or farming on the same Nevada property for at least 100 years, and the property must be a working ranch or farm with 160 acres or with gross annual sales of at least $1,000.

I would like to take this opportunity to congratulate and honor the following recipients who have not only shown a commitment to land, but a commitment to family and our land.

Blue Eagle Ranch, Tonopah; Bunker Farm, Inc., Bunkerville; Ferraro Cattle Company, Paradise Valley; Green Springs Ranch, Duckwater; Heise Family Ranch, Gardnerville; Krenka Ranch, Ruby Valley; Laura Springs Ranch, Gardnerville; Riddor Ranch, Jiggs; Snyder Livestock Company, Inc., Yerington; Stodieck Farm, Minden; Wilkinson Little Meadow Ranch, McDermitt.

The success, sustainability, and longevity of these ranches and farms stand as an example, to those in agriculture and beyond, of what commitment, determination, and hard work can accomplish.

LET YOUR DEEDS MATCH YOUR APOLOGIES

HON. MAJOR R. OWENS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. OWENS. Mr. Speaker, in politics apologies are always important. We need more apologies and less fiction among nations and groups. We need apologies that help to avoid wars. Apologies can never be adequate substitutions for restitution or reparations; however, apologies offer their own alternative satisfactions. The present German nation has apologized for the Nazi German Holocaust. But the Koreans and Chinese are not happy with the rather muddled apologies of the Japanese for the atrocities of World War II. And, of course, no one has ever apologized for the Atlantic Slave Trade and two hundred and fifty years of slavery in America. Despite the fact that there is still a huge apology gap in our civilization, we must applaud small apologies that there is still a huge apology gap in our civilization.

We grant a pat to the House on the State of the Union had under President Bush's unshakable resolve.

But at the same time, it is just as imperative that we protect our constitutionally guaranteed civil rights. A free society is what makes our nation great, and now, more than ever, it is crucial that we protect our civil liberties with unshakable resolve.

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

SPEECH OF HON. GARY L. ACKERMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 21, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill, (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

Mr. ACKERMAN. Mr. Chairman, I certainly believe that the United States needs to be vigilant in protecting our nation and combating terror; however, we must be careful that we do not unnecessarily sacrifice our civil liberties in pursuit of our enemies.

While many of the provisions were needed, both then and now, when Congress passed the original PATRIOT Act in October 2001, we rightfully placed sunset clauses on certain provisions that infringed on our civil liberties and granted extraordinary powers to federal authorities. These sunset clauses were incorporated in order to provide us with the opportunity to reexamine and reevaluate whether the need for such invasive powers continues to outweigh their sometimes overly intrusive nature.

Rather than providing Congress with the opportunity to evaluate the effectiveness of a measure and correct any abuses, the PATRIOT Act Reauthorization would renew two of the original sunset provisions for a period of ten years and make the rest of the temporary provisions permanent. This would effectively remove all Congressional oversight over the PATRIOT Act. As a result, Americans would forever forfeit some of their most cherished privacy rights and precious civil liberties.

One of these provisions gives federal investigators authority to examine and access individual records at libraries and bookstores. Under this measure, federal authorities do not have to demonstrate probable cause of criminal activity or of an individual's connection to a foreign power. In addition, libraries and bookstores are prohibited from informing patrons that the government is monitoring their reading transactions. While there is broad bipartisan opposition to this provision, the Republican leadership, in a gross abuse of the democratic process, failed to allow even a vote on an amendment that would repeal this egregious provision.

Measures like this are not going to help us prevail in the war against terrorism. Instead, we should be providing our law enforcement agencies with sufficient risk-based funding, so that they can be adequately equipped to protect our homeland. Yet, the Bush administration continues to cut funding for state and local law enforcement, the men and women in our communities who serve on the front lines of domestic security.

I too am committed to keeping our nation safe while we are fighting the war on terror. But at the same time, it is just as imperative that we protect our constitutionally guaranteed civil rights. A free society is what makes our nation great, and now, more than ever, it is crucial that we protect our civil liberties with unshakable resolve.

HEALTH CARE WEEK

HON. TAMMY BALDWIN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to voice my disappointment in the bills that the House of Representatives is considering during this so-called “Health Care Week.”

While I applaud House leaders for turning their attention to the health care crisis, I do not believe that the bills we are considering will solve the problem we face, and I fear that some of these measures may actually worsen the crisis. I look forward to the day when we will consider real solutions to ensure that all Americans have access to quality, comprehensive, affordable health care.

According to the latest figures released by the Census Bureau, 45 million Americans are uninsured. Millions more are underinsured. Just last month, the Commonwealth Fund released a study estimating that there are 16 million Americans who are underinsured—meaning their insurance would not adequately protect them in the event of catastrophic health care expenses. That means that 61 million Americans either have no health insurance or have insurance coverage that leaves them exposed to high health care bills. Sixty-one million is nearly 21 percent of all Americans, or one in five. Put simply, this is unacceptable.

Unfortunately, the health care legislation that the House will consider this week fails to address our nation’s health care crisis. These bills will not do anything to provide quality, comprehensive, and affordable health care to these 61 million Americans or to the millions more who constantly worry about losing their health care.

As in years past, I remain opposed to proposals to create “association health plans” or AHPs. AHPs purport to offer affordable health care to small business owners and employees, but this is accomplished by exempting in sales from state insurance and consumer protection laws including benefit mandates, solvency standards, and pricing rules. This evasion of state laws could be devastating to the consumer who thinks that they have comprehensive coverage only to discover, after the fact, that their policy offers a bare bones minimum of benefits.

In addition, the Congressional Budget Office estimates that AHPs will cause 10,000 people...
to lose their health care coverage. Because AHPs are exempted from state insurance laws, AHPs can “cherry pick” the healthiest employees and deny coverage to those who are more costly to cover. This would drive up insurance premiums for everyone who remains in state-regulated insurance plans, making health insurance less affordable and forcing people to drop their insurance because of rising costs. I recognize the frustration and struggles faced by the self-employed and small business owners trying to provide health care to their employees, but AHPs are not the answer to the uninsured crisis, if they will result in more people becoming uninsured.

Similarly, the House will consider a medical malpractice bill that will fail to lower health care costs for Americans. Proponents of this bill claim that rising costs of medical malpractice insurance and “excessive litigation” are driving up health care costs so much that caps must be instituted, placed on the amount of money a victim of malpractice can receive for a lifetime of pain and suffering or other non-economic damage. Unfortunately, these caps will have little effect except to limit patient rights to sue for medical injury. Numerous studies have shown that medical malpractice awards, legal fees, and other costs account for less than one percent of the nation’s health care spending. This bill represents nothing more than a false premise.

Soaring malpractice insurance rates need to be addressed with two principles in mind. First, do no harm to the victims of medical errors. Second, start addressing insurance abuses by focusing on the malpractice insurance industry and the victims of medical malpractice. Narrow federal caps on non-economic damages are not the way to address the problems with malpractice insurance.

Health care costs are rising for many reasons. Given the relatively small role that medical malpractice verdicts and settlements play in rising health care costs, this bill is really more of a distraction that is keeping us from making headway on the real culprits. Congress is in the business of health and tort law to the states. Congress should not spend its time demonizing victims and their advocates.

Mr. Speaker, there are a number of underlying issues that come up when considering America’s health care crisis: uninsured, underinsurance, affordability, and quality, just to name a few. All Americans deserve quality, comprehensive, and affordable health care, and I look forward to the day when we will consider legislation that truly responds to these challenges.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFRAGISTS

SPEECH OF
HON. DEBORAH PRYCE
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to commemorate women suffragists. As one of the eighty-three women serving in the House and Senate, the Women’s Rights Movement was, and continues to be, in my opinion, one of the most inspirational series of events to occur in United States history.

The battle for suffrage, fought by the early women’s rights leaders was thought to be the most effective way to change an unjust system. Constant barriers were thrown ahead of them, and degrading stereotypes were placed upon them. Challengers of women’s suffrage claim that women were less intelligent and less able to make political decisions than men. The women of the suffrage movement dismissed these accusations with the ratification of the 19th Amendment, giving women the right to vote. Now, women utilize this freedom more than men. Among citizens, women’s voting rates have surpassed men’s ever since the 1984 presidential election. 54 percent of the 2004 presidential election votes belonged to women and 46 percent of the votes to men.

Women like Lucretia Mott, Elizabeth Caddy, Sojourner Truth, and Susan B. Anthony were the pioneers of the suffrage movement. They took risks and broke laws in order to pave the way for the new generation of suffrage leaders like Carrie Chapman Catt, Maud Wood Park, Lucy Burns, Alice Paul, and Harriot E. Blatch. All of these women devoted their lives to this cause. That is why it is so important that we devotes a day to honor these women.

Mr. Speaker, I urge my colleagues to support this resolution.

INTRODUCTION OF A BILL TO EXEMPT HAWAII FROM THE ADJUSTED GROSS INCOME LIMITATION ON PARTICIPATION IN CONSERVATION PROGRAMS

HON. ED CASE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a bill that exempts my State of Hawaii from the adjusted gross income limitation on participation in Farm Bill conservation programs. These programs assist and incentivize producers and landowners to preserve and conserve the dwindling agricultural lands of our country.

These ineligible programs include the following:

- Conservation Reserve Program (CRP), which provides annual rental payments to replace crops on highly erodible and environmentally sensitive lands with long-term plantings that protect the soil. Hawaii is attempting to access this program, the largest of all the conservation programs, by developing a Conservation Reserve Enhancement Program, which is awaiting approval by the USDA.
- Conservation Security Program (CSP), which provides cost share payments to producers and landowners to plan and install structural, vegetative, and land management practices on eligible lands to alleviate conservation problems, with 60 percent of funds allocated to livestock producers.
- Environmental Quality Incentives Program (EQIP), which provides cost share payments to producers and landowners to plan and install structural, vegetative, and land management practices on eligible lands to alleviate conservation problems, with 60 percent of funds allocated to livestock producers.
- Grassland Reserve Program (GRP), which retires acres from grazing under arrangements ranging from 10-year agreements to permanent easements and permits the delegation of easements to certain private organizations and state agencies.

- Wildlife Habitat Incentives Program (WHIP), which provides cost sharing and technical assistance for conservation projects that primarily benefit wildlife.
- Wetlands Reserve Program (WRP), which uses permanent and temporary easements and long-term agreements to protect farmed wetlands.

These programs have become increasingly important in Hawaii, where funding has risen from around $4.9 million in 2003 to $14.2 million in 2005. Unfortunately, especially in the case of the Conservation Reserve Program, Hawaii’s ability to access these programs has been severely limited by the application of the adjusted gross income limitation (AGI) placed on the programs by the 2002 Farm Bill to Hawaii’s unique conditions. As a result, many of the lands that would deliver the highest environmental benefits are excluded because of this provision.

In Hawaii’s case, there are compelling reasons why an exemption from the AGI limitation is not only fair but necessary for these programs to achieve their desired goals. By way of background, during the writing of the 2002 Farm Bill some groups called attention to the fact that some very wealthy individuals were receiving payments under Farm Bill conservation programs. As a result, a limitation was put in place making individuals and corporations with annual incomes of $2.5 million or more ineligible for participation in Farm Bill conservation programs unless 75 percent of that income comes from farming, ranching, or forestry.

This adjusted gross income (AGI) provision seriously disadvantages Hawaii because the major portion of our agricultural lands are owned by families or corporations with diversified holdings. In many cases, these entities have remained engaged in ranching or farming, despite low profit margins, due to a connection to long traditions in ranching, farming, or other activities.

Large agricultural landholdings in Hawaii typically date back more than 100 years and follow the traditional Hawaiian land division of ahu'ula'a, where land parcels extend from the mountain to the sea, based on the ancient Hawaiian recognition of the interconnectedness of these environments. As a result, we have properties where the upper lands might be used for ranching, the middle lands for crops or residential development, and the lower, overused lands for horses and bird-watching developments. Therefore, we have ranches where income from ranching is supplemented by a shopping center and restaurant. A portion of the ranch land may, and in many cases in Hawaii does, harbor endangered plant and animal species. Taking these marginal lands out of cattle production and assisting with reforestation of native species can have a tremendous impact on the prospects of survival for Hawaii’s endangered species. But regrettably, the AGI provision means that federal funds to assist in these efforts cannot be used to provide what could be enormous environmental benefits. Thus, as a result of our particular history, we in Hawaii are denied access...
to a very valuable tool to encourage conserva-
tion on many of these marginal agricultural
lands.

In addition, as one of the most isolated land
masses in the world, Hawaii has a wealth of
unique animal and plant species; regrettably
we are one of the few states with endangered
species of the United States. Our 255 listed plant
species represent approximately one-fourth of the
total number of endangered species in the
United States. They also comprise more than one-
fifth of the entire Hawaiian flora. An Hawaii's
endemic birds make up one-third of the list of
dead last of all the states in terms of federal assistance received
as a percentage of agricultural production. In
fact, we receive less than 1 cent per dollar of
production value compared with 17 cents for
North Dakota and an average of 6 cents na-
tionwide.

As a prime example, Hawaii has only ever
had 21 acres enrolled in the Conservation Re-
serve Program, which covers some 39.2 mil-
lion acres nationwide. The Conservation Re-
serve Program (CRP) was enacted in 1985
and has been the biggest single USDA
conservation program, costing just under $2
billion annually in recent years. Under this pro-
gram, producers bid to retire highly erodible or
environmentally sensitive land from production
during national signup periods. The Farm
Service Agency ranks bids based on their esti-
mated environmental benefits and cost to the
government. (I have no doubt that Hawaii
would deliver very high environmental bene-
fits, especially when one considers the impact
on coral reefs and endangered species.) Suc-
cessful bidders receive annual rental pay-
ments and cost sharing and technical
assistance, to install conservation practices.
Almost all the enrolled land is retired for 10
years. Enrollment is limited to 25 percent of
the crop land in a county.

In July 2004, Hawaii's Governor Lingle sub-
mitted the "Hawaii Conservation Reserve En-
hancement and Coordinated Conservation Plan." The proposal is currently under review
by the Farm Service Agency.

If approved, the plan will restore 30,000
acres of native forest—10,000 acres in riparian
buffers along streams and 20,000 acres in
large blocks in groundwater recharge and
sediment source areas. The plan covers the
islands of Maui, Hawaii, Molokai, Lanai, Kauai,
and Oahu. The principal goals of the project are
to improve water quality in streams, re-
duce flow to streams to lessen sediment runoff
and near shore waters and coral reefs, and restore terrestrial and
aquatic wildlife habitat.

Unfortunately, the proposal has been stalled
because of concerns that not enough suitable
land will be eligible under AGI
limitations.

Hawaii's future has many unique charac-
teristics due to our isolated location, land
use patterns dating from the days of the King-
dom of Hawaii, tropical climate, and year-
round growing season. Few USDA programs
address our special needs, and we do not
benefit from any of the general commodities
programs. Hawaii has traditionally received
relatively little assistance from the Farm Bill
conservation programs, although they seek to
address priority problems on our is-
lands: protecting water quality, preserving en-
dangered species, and controlling invasive
pests.

An AGI exemption for Hawaii would remove
a barrier that effectively eliminates roughly 80
percent of Hawaii's agricultural land from par-
ticipation in conservation programs. I ask my
colleagues for their support for this exemption
to help to protect Hawaii's special environment
and vulnerable endangered wildlife both on
the land and in our nearshore waters and to
provide Hawaii with equal and fail access to
the great benefits of these programs.

50TH ANNIVERSARY OF THE PARISH OF ST. LOUIS THE KING

HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker today I honor
the parish of St. Louis the King Catholic
Church for 50 years of serving the commu-
nities of Marquette, Harvey, Lakewood, Hi-
watha Shores, Sand River, Beaver Grove,
Mangum, West Branch, Skandia, Dukes and
Sands. The parish has provided opportunities
for thousands of people to seek faith, conduct
outreach, and engage in fellowship and wor-
ship. But as they continue to grow, love, and live
the 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. RANGEL. Mr. Speaker, I rise to recog-
nize the significance of the Voting Rights Act
of 1965. Next week will mark the fortieth anni-
versary of the passage of that historic act of
Congress and there will be commemorations and
remembrances throughout the nation, including a march in At-
los Angeles being led by our colleague, the Honor-
able John Lewis—a civil rights heritage in his
own right. While August 6th will symbolize prom-
inent strides that this country has made in terms of equal rights, the second anniversary of
the Act's passage will also highlight consider-
able room for improvement and work to truly
guarantee that right to vote to all Americans.

The Act is a reminder of the oppression suf-
fered by the Black community between Recon-
struction and the Civil Rights Movement that
Blacks could be utterly denied the most basic
constitutional right to vote without any re-
course to assert and obtain that from any of
the branches of the United States government,
including the Judiciary. The right to vote is
fundamental to political empowerment under
our Constitution and democratic form of gov-
ernment. Its denial effectively deprived citizen-
ship to African-Americans in the Jim Crow era.

Despite the promises of the Fifteenth
Amendment, most Black Americans were rou-
tinely denied the right to cast ballots in federal
and state elections, particularly in the South.
This denial was a function of both the state
government and of local individuals deter-
mained to maintain their hold on political power
in this country. It was another element of the
fear and torture that existed throughout this
country to intimidate and discourage Blacks
from pursuing their most basic rights in this
country.

Individuals were denied the opportunity through official and unofficial channels to cast
their ballots. Literacy tests, poll taxes, grand-
fathers of equal, and gerrymandering were but
a few of the mechanisms used by the state to
prevent Black Americans from voting and
voting electors to represent their interests
while lynchings, threats and intimidations, and
Ku Klux Klan marches asserted the will of big-
oots to oppose the equal treatment of all Ameri-
cans.

Faced with these startling realizations and a
mobilized Black community, President Lyndon
Johnson advocated for the Voting Rights Act
of 1965. Despite the perceived political disadvantages for himself and his party, Johnson’s efforts were important to securing the rights of Black Americans throughout the country. His efforts opened the doors of electoral influence and power for Black Americans in this country.

Thanks to the efforts of the Voting Rights Act, poll taxes that charged certain Americans for their right to vote were eliminated. Literacy tests which were selectively applied to Blacks were banned. Individuals who stood in polling sites intimidating minorities from voting were committing federal crimes. Federal agents were deployed to protect and guarantee the rights of these Americans to vote.

Today, we can enjoy the fact that African-Americans, Hispanic Americans, and other minorities are guaranteed the right to vote in every state and federal election, that the legislative bodies of this country are more representative of the diversity of the nation than of the rich and powerful, and that the power of the people to elect their leaders is guaranteed in both the 15th Amendment and the Voting Rights Act.

Nevertheless, Mr. Speaker, the right to vote—the most important obligation of our citizens—is not universal to our citizens. There remain a number of barriers to full voting rights of this country and this Congress should look into addressing those challenges when we renew the Voting Rights Act next year. Some of these barriers are intentional; others less so. Regardless, the right to vote should be undeniable to a democracy’s citizens. It should be undeniable to the citizens of the United States.

As we approach the 40th anniversary of the Voting Rights Act, an ever-increasing number of Americans are being permanently denied their right to vote in federal elections for their past criminal behavior. Based on Justice Department figures from 2000, an estimated 1.6 million ex-offenders in 14 states are denied the right to vote after paying their debt to society. These ex-offenders are continually denied their right to cast votes for these past actions. Nevertheless, Mr. Speaker, I rise today to honor a fine educational institution in my district, St. Rita of Cascia High School, as the community, families and friends of the high school gather to celebrate its 100th Anniversary.

Founded in 1905 by the Very Reverend James F. Green, O.S.A. on the south side of Chicago, St. Rita’s High School was founded in the spirit of St. Augustine and of the Catholic Tradition. The mission of this institution was to form the whole student—spiritually, intellectually, emotionally, physically, and socially—to excel beyond the classroom and in their life experiences.

With the rapid growth of its student body population, St. Rita’s quickly became recognized as one of Chicago’s outstanding secondary schools. St. Rita’s commitment to providing a well-rounded education based on ancient knowledge which still holds true today, has created an environment in which the students experience fulfillment and exemplify the qualities of truth, honesty, integrity, modera-
tion, responsibility, self-discipline, self-worth and a desire to serve society.

It is my honor to recognize the community of St. Rita of Cascia High School for its many achievements both academic and athletic, and for fostering the growth of those individuals who will help create change and promote progress in today’s society.

CONGRATULATING THE LAKE HOPATCONG HISTORICAL SOCIETY

HON. RODNEY P. FRELINGHUYSEN
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to honor the Lake Hopatcong Historical Society, in my Congressional District. The Historical Society is celebrating fifty years of protecting documents and artifacts for the community and promoting education and historic preservation.

The actual creation of the Lake Hopatcong Historical Society occurred on August 10, 1955, at the Langdon Arms Restaurant with eight people in attendance. From the beginning, the members’ goal was to establish a museum for the lake.

From the original eight individuals who attended the first meeting in 1955, the society grew to 150 members by the time the museum opened in 1965. In the early 1960s the State of New Jersey moved forward with plans for a new administration building at Hopatcong State Park. The park was on land which was previously owned by the Morris Canal and Banking Company. When the canal was abandoned in the 1920s, the 98 acres around the Lake Hopatcong dam were set aside as a state park.

Today, with nearly 800 members, the organization continues to follow its mission “to collect, house, and preserve artifacts and documents relating to the civil, political, social and general history of Lake Hopatcong and to encourage the education and dissemination of information about Lake Hopatcong’s history.”

Mr. Speaker, I urge you and my colleagues to join me in congratulating the Lake Hopatcong Historical Society and all of its outstanding members and volunteers, upon celebrating its 50th Anniversary.

INTRODUCTION OF THE HAWAII INVASIVE SPECIES PREVENTION ACT

HON. ED CASE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a crucial and long-overdue measure to address directly what is far and away the most serious threat to my Hawaii’s unique and treasured environment: The escalating introduction and establishment of invasive species.

Non-endemic species have done great damage to Hawaii’s exposed and non-resistant natural systems. But it is the sheer rate at which it is now accelerating presents a true crisis, threatening now to completely overwhelm and permanently preclude our ability to provide any modicum of protection, and demanding that we go in a whole different direction of affirmative prevention.

Hawaii is the most remote populated land mass on our planet. Our islands’ native species thus evolved in isolation, which led to the generation of species entirely unique to particular islands and found nowhere else in the world. In fact, such species are still being discovered in Hawaii. For example, the current issue of the journal Science reports on a unique web-spinning caterpillar recently discovered in Hawaii that stalks and eats snails.

But more than 5,000 species of non-native plants and animals have become established in the Hawaiian islands in the past 200 years, a rate of successful colonization of a new species every 18 days. This is in astonishing contrast to the estimated rate of introduction to Hawaii through natural evolution of one species every 25,000 to 50,000 years.

Not all of these new species become pests, but too many do and the consequences are devastating given Hawaii’s globally unique and fragile natural environment. As a result, non-native invasive species and diseases represent the single greatest threat to Hawaii’s land species and our health and viability of our natural systems. Because of the islands’ geographic isolation, many species do not have natural predators, and so defense mechanisms like thorns, odors, or toxins have disappeared through the process of evolution. If an aggressive non-native species becomes established in Hawaii, it can easily overwhelm native species and be very difficult to eradicate because of our hospitable climate and lack of natural competitors.

Thus, Hawaii is most regrettably the undisputed endangered species capital of the United States, if not the world. Our 255 listed plant species represent approximately one-fourth of the total number of endangered species in the United States. They also comprise...
more than one-fifth of the entire Hawaiian flora. And Hawaii's beautiful endemic birds make up one-third of the list of U.S. endangered bird species. Many of these birds only exist on one island. What's more shocking is that this disproportionate situation exists in a state with a land area that represents less than 1% of the earth’s land. Hawaii may represent only 0.03% of the land mass of the entire nation.

Just 10 years ago, in 1994, the Federal Office of Technology Assessment declared Hawaii's alien pest species problem as the worst in the nation. In Hawaii, however, the problem of alien pests—from the Formosan termite to the Oriental fruit fly to marine species brought in with bilge water—has worsened considerably, not only costing Hawaii government and business millions of dollars each year in both prevention and remediation, but also impacting many of the world's most unique and endangered lifeforms will not survive. At this point, the introduction and establishment of even one new pest, such as the brown tree snake, which has eliminated the native birdlife of Guam, would change the character of Hawaii forever.

This is obviously a grim picture, but nothing like the future picture if we don't wake up and change our entire approach. For the escalation of travel, commerce and defense activity across the Asia-Pacific region, combined with Hawaii's position as the crossroads of the Pacific and the gateway between Asia and the Pacific and the United States, makes it critical, from not only an environment/conservation perspective but one of economic and human health, that new pests be stopped before they come too far.

Hawaii must change our entire approach. For the escalating movement of goods, these arise from not only an environment/conservation perspective but one of economic and human health, that new pests be stopped before they come too far. Hawaii must be far better than we are currently, better than the rest of the country, better than the world. We must be far better than we have been before the spread of invasive species and diseases.

We have two things going for us. First, our location in the middle of the ocean, provides us with far better control over movement of invasives across our borders than, say, a landlocked midwest state. Second, we have a solution, which has proven effective, staring us in the face.

For more than 40 years, a Federal quarantine has been imposed in Hawaii on the movement of all passengers and cargo from Hawaii to the U.S. mainland to protect the U.S. mainland from identified insect pests in Hawaii. And so far, Hawaii has been successful in keeping the U.S. mainland free of all known foreign pests with the exception of the Mediterranean fruit fly. Ironically, these pests are themselves invasive to Hawaii, causing millions in agricultural losses and added treatment costs for our export crops. Under this system, passenger baggage and cargo is physically inspected by USDA inspectors using advanced inspection equipment; most passengers don't give the process a second thought.

A similar, more comprehensive, system is already in place for a whole country—New Zealand—which as a remote island nation with disproportionately high and exposed endemic species bears striking similarities to Hawaii. New Zealand "white lists" designate permissible import species, say no to everything else, and then inspect on arrival for enforcement.

But ironically Hawaii, which has a much more acute overall problem than either the U.S. mainland or New Zealand, has found it difficult to fashion and implement a similar prevention regime. Part of the problem has been general denial and naysaying. But a more tangible obstacle has been federal laws that either prohibit or severely limit the ability of the U.S. government to control the movement of goods. These arise under the Commerce Clause, which requires a state to consider the burdens its regulations may impose on interstate commerce, and the Supremacy Clause, which may preempt state regulation in an area where Congress has already legislated.

My bill—the Hawaii Invasive Species Prevention Act—may be condensed into this simple statement: what is good for the U.S. mainland should be good for Hawaii. The bill authorizes Federal funds to allow the State of Hawaii to establish an expedited process to request approval for additional protections would be subject to appropriations. Finally, the bill authorizes Federal funds to allow the State of Hawaii to establish an expedited process for the State of Hawaii to seek approval to impose general or specific prohibitions on the introduction or movement of invasive species or diseases that are in addition to any prohibitions or restrictions imposed by the law. The law may encompass at white list approach. And in cases of imminent threat, the State of Hawaii is authorized to impose, for not longer than 2 years pending approval by the Secretaries, general or specific prohibitions or restrictions on the introduction or movement of a specific invasive species or disease.

Actual implementation of the Federal quarantine would be subject to funds being specifically appropriated, or designation of a means to finance the system (for example, a means of financing similar to that now utilized by the USDA for its outgoing quarantine). However, the design of the system and the expedited process under which the State of Hawaii can seek approval for additional protections would not be subject to appropriations. Finally, the bill authorizes Federal funds to allow the State of Hawaii to establish an expedited process for the State of Hawaii to seek approval to impose general or specific prohibitions on the introduction or movement of invasive species or diseases.

Mr. Speaker, I end my remarks where I started: this bill is not only light years overdue, but crucial, if not indispensable, to the preservation and enhancement of my Hawaii as we know it. I ask for my colleagues' expedited support.

100TH ANNIVERSARY OF THE CITY OF CHARLEVIOX

HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. On June 1, 2005, the residents of Charleviox, Michigan, honored their history that began as an early settlement for Native American Tribes, and grew into an essential regional shipping port and remains a major center for tourism in northern Michigan.

Michigan State University archeological digs have uncovered evidence that indicated Michigan's early Native American Tribes established seasonal settlements in the Charleviox area dating back to 1500 B.C. The area, then known as Pine River, also became a seasonal home to Beaver Island fishermen during the mid-19th century. This development would begin the long-time fishing trade that would later position Charleviox as the largest exporter of fish of any port on the Great Lakes during the early 1900's.

It was a Mormon family that left Beaver Island in 1854 for more tranquil life that planted the seeds of the city. After starting a farmstead nearby what is now the downtown, many families followed suit by establishing their own farms, fishing businesses and lumbering operations. Who would have known that the quiet little country town that was once known as Pine River, also became a seasonal home to Beaver Island fishermen during the mid-19th century. This development would begin the long-time fishing trade that would later position Charleviox as the largest exporter of fish of any port on the Great Lakes during the early 1900's.

Upon the channel opening in 1869 that created a connection between Round Lake to
Charleviox Lake allowing navigation to Charleviox from Lake Michigan. This new access "opened up the entire northwest corner of the Lower Peninsula of Michigan to national and subsequently international commerce," according to local historians. The Federal Government, with charged with the maintenance of the channel, and the increase due to the incursion of economic importance Charleviox was having on the area as a principal shipping port in the area.

As years went on, travelers to Pine River began referring to this area as the "town in Charleviox County" and then simply as Charleviox. In 1879, the village was chartered under the county name of Charleviox.

With a long standing maritime history that included canoes, yachts, passenger liners, lake freighters, pleasure crafts and a U.S. Coast Guard Cutter, Charleviox has been considered one of the finest harbors on the Great Lakes. During the late 1800's, the harbor's easy access, beautiful scenery and reputation for a healthy atmosphere made Charleviox an attraction for tourists and resorers from around the country. The establishment of a railroad in 1892 and three of the finest resorts in America made Charleviox a national vacation destination drawing tens of thousands of guests each summer.

As the influx of out-of-towners grew each year, the number of those who stayed in Charleviox increased. The village of Charleviox was charted as an official city by the State of Michigan in 1905 but maintained its quaint small town feel and the appeal of a major harbor resort area.

Mr. Speaker, due to the influence of Native American settlements, trades that were based on the bountiful natural resources and the beauty of the region, the history of Charleviox is unique. Charleviox, known to its residents as "Charleviox, The Beautiful" was able to capitalize on its unique attributes which have drawn visitors from every State in the Union and countries from around the world to its little comer of Michigan. I ask the United States House of Representatives to join me in congratulating Charleviox and its residents on their first 100 years and in wishing them well through the next century.

In a society where African-American youth are usually characterized by negative stereotypes, it is refreshing to see such promising individuals. These young people have shattered negative stereotypes by accepting the challenge to become America's future leaders. The 43 CBCF interns have done more than just answer phones and sort mail, they have become active participants in the legislative process. They have worked on substantive issues and evidenced the potential to become proficient in public policy research, analysis and advocacy. Their presence has definitely been felt throughout the short weeks they have been on the Hill. From organizing receptions to starting petitions for the Darfur crisis, they have made an impact in our offices and on Capitol Hill.

The CBCF internship program and the interns it produces are very special to me. My wife, Alma, was one of the first co-chairs of the Congressional Black Caucus Spouses and was instrumental in creating the foundation's internship program. Since then, the internship program has flourished and we have gone from providing wider support for your staff to providing a support network for African-American students, offering fellowships and conducting summer enrichment programs.

I would like to take this opportunity to formally recognize the CBCF interns and thank them for the valuable work they have done this summer. In particular, I want to recognize and praise Rayshelle McCadney for the contributions she made to my office this summer during her CBCF internship; she was a terrific addition to my staff. I would also like to thank the program coordinators Troy Clair, Erin Miles and Jason Goodson of the Congressional Black Caucus Foundation's internship program. Since then, the internship program has flourished and we have

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Mr. Speaker, I urge you and my colleagues to join me in congratulating the volunteers of the Somerville Central Hook & Ladder Company on the celebration of 125 years of a rich history in the protection of one of New Jersey’s finest municipalities!

INTRODUCTION OF THE CORAL REEF CONSERVATION AND PROTECTION ACT OF 2005

HON. ED CASE OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. CASE. Mr. Speaker, in introducing an earlier version of this bill into the 108th Congress (2003–2004), I remarked that I was grateful for being able to take an action both long overdue and truly needed. I still feel that way as I reintroduce the Coral Reef Conservation and Protection Act of 2005, except that this proposal is now far longer overdue and far more needed.

As I said last Congress, my childhood was spent among the rich diversity of the coral reef ecosystems of my native Island of Hawaii. It was a time of budding wonder at what nature had wrought in the lives of both reef and life existing in mutual dependency and sustainability. But just weeks ago, when I returned, as I often do, now with my children, to those same reefs, they’re not what they were. Still beautiful, yes; still wondrous. But there is not the same luster; the fish and other marine life not as abundant as before; nor the presence of new, alien species is apparent.

Of course, there are simply more of us in those marine environments than there were, and so our cumulative impact over my fifty years in those waters has become apparent, even at the level of recreational and subsistence use. But it’s more, for these reefs have become a significant business, their coral exoskeletons, their living creators, and the shells and fish that live in and among them, the aquariums and curio shops of the world. And the purposeful and accidental introduction of marine invasives in isolated instances over the last decades have magnified into a critical mass of statewide presence and threat.

In relevant terms, though, we in Hawaii are among the lucky ones, for at least we still have living, albeit threatened, coral reefs, with declining but at least remaining marine life. At least we have marginally protective state laws, and a culture of arguable sustainability. But in much of the rest of the marine world, especially throughout the temperature zones of the Pacific and beyond, the world of the coral reef is past endangered and into destroyed, wiped out by a wave of commercial overfishing, overcollecting, dynamiting, cyanide poisoning, and other forms of ecological pilage. In these worlds, laws do not exist to provide even minimum protections or, if they do, they are spurned.

Some say that that’s their business; what do we care if they wreck their marine ecosystems? First, of course, in today’s interdependent world, our global environment is spurned. In these worlds, laws do not exist to provide even minimum protections or, if they do, they are spurned.

None of this is new: we’ve known all of this for decades. We’ve even set out to do something about it. In 1973, we became a party to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), which sought to clamp down on endangered species trafficking. But although some of our world’s coral reef life has been designated as covered under it, the enforcement mechanisms are frankly ineffective.

More recently, in 1998 President Clinton issued the Coral Reef Protection Executive Order (No. 13098) establishing the U.S. Coral Reef Task Force. That entity was directed to strengthen our stewardship and conservation of our country’s reef ecosystems, and to assess our role in the international coral reef products trade with the goal of taking actions to promote conservation and sustainable use of coral reefs worldwide.

The Task Force conducted its evaluations, made its reports, and outlined what was needed. That was in large part comprehensive legislation to institute common protective standards for our nation’s coral reefs, but, equally important, rules to discourage international coral reef abuse and encourage sustainable practices by allowing imports only of non-endangered products collected by sustainable practices and pursuant to integrated management plans.

The Coral Reef Conservation and Protection Act of 2005 I gratefully reintroduce today embodies the principal directions of the Task Force and more. It enacts a comprehensive scheme for the domestic and international protection of our world’s coral reef ecosystems. The regime’s key ingredients are the disallowal of any domestic taking, transport in interstate commerce, or import of the endangered marine life of our coral reefs, unless that life is collected in non-destructive ways or subject to sustainable management plans or otherwise exempted from coverage by administrative actions.

Mr. Speaker, we have to start somewhere; our world’s coral reefs are crying for our help. This bill is that start, and I urge its prompt deliberation and passage. Mahalo, and aloha!

100TH ANNIVERSARY OF ROSE CITY

HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 27, 2005

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. On September 3rd, 2005 the residents of Rose City, Michigan will partake in their annual end-of-summer ox roast and pay tribute to its city’s history that consists of the All-American boom town tales as well as those more tragic stories.

The first settlers to the area worked their way from Saginaw Bay along the Rifle River to what would become Ogemaw County in the 1820s. The Ogemaw County, named after local Chippewa Chief Ogemaw-Ke-To, was home to several family names including Beck, Rose, Zettie, Rau and many others still residing in the region. Among those original settlers...
was William Rose who founded Rose City, then known as Churchill. Lumber and agriculture brought droves of people to the area where several lumber mills and a flour mill were amongst the more than 30 businesses in the Rose City downtown district. Son of the Churchill founder William Rose, Allen S. Rose partnered with banker M.H. French to establish the French and Rose Land and Lumber Company. According to the local newspaper, in 1833 Rose was instrumental in bringing the first commercial railroad, the Mackinaw & Detroit Railroad, to Rose City to service the area’s lumber operations. The railroad made its first stop to Rose City that year on Christmas day.

The eventual Mayor of Rose City and Michigan State Senator, H.S. Karcher, worked to incorporate the city on April 13, 1905. The city was named after Allen Rose who was also the local Postmaster at the time. During the peak of the lumber period, Ogemaw County contained 30 post offices. Of the many cities incorporated in the region by the State of Michigan in that same year, only two have survived, Rose City and West Branch. This year on April 13th, Rose City’s current mayor, William Schneider, and Rodney Mason, the great-grandson of Allen Rose, reenacted the signing of Rose City’s charter.

Rose City has not survived the past 100 years unscathed, however. The famous fire that broke out in D.W. Benjamin’s grocery store on April 3rd, 1910 would scar the city’s economy and morale for years. The fire that began in the grocery store was not discovered until 3:30 a.m. when flames had engulfed the building. The small town “bucket brigade” was not able to fight the fierce fire and one hour later the entire business district was destroyed.

That night, 30 of 32 businesses were lost causing an estimated $175,000 worth of damage. The few items salvaged from the businesses were stolen. In his valiant effort to run from the clothes on his back and two dollars in his pocket to the fire. Mr. Speaker, Rose City has experienced an All-American history with tales of the best of times and the worst of times. As the entire city gathers this September to celebrate the end of the summer with their annual ox roast, it is quite apparent that they have risen from the ashes of their most tragic event to embrace their best assets—one another. I ask the United States House of Representatives to join me in congratulating Rose City and its residents on their first 100 years and in wishing them well through the next century.

COMMEMORATING THE EFFORTS OF PASCAL MORETTI IN HONORING OUR WORLD WAR II VETERANS

HON. WILLIAM D. DELAHUNT OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DELAHUNT. Mr. Speaker, as we prepare next month to commemorate the 60th anniversary of World War II, Americans will again turn their thoughts to those who sacrificed on the battlefield and the home front.

The Greatest Generation of soldiers came from cities and towns all across our Nation. They were ordinary men called to a great crusade. Their mission was nothing short of making the world safe for democracy.

Six decades ago, the soldiers of the 95th Infantry Division—a unit that fought through German-occupied France—one field, one bridge, one city at a time. They went to Europe, not as part of a conquering army, but as liberators to restore freedom to the land of Lafayette. Some of the men in the 95th Infantry Division never made it home. They rest in fields once made infamous by the fury of war, and now where peace holds its gentle sway. These men made the ultimate sacrifice for a noble idea. A simple, immutable truth as old as our Republic: That all people, everywhere, have the right to life and liberty.

We’re reminded of their sacrifice whenever we see children in a cemetery planting small flags near the headstones of our fallen soldiers; or in the expression of an aging veteran summoning all his strength to stand at respect during the national anthem. They offered the last full measure of devotion to ensure our liberty for posterity.

However, we are not the only ones who are grateful for their sacrifice. All around the globe, monuments and plaques recount the acts of bravery that secured for an oppressed people freedom from their Nazi occupiers. No where is this more evident—and appreciated—than in the villages of France. These commemorations have taken on a new significance this year as the world celebrates the 60th Anniversary of V–E Day.

In one particular French town, Metzervisse, the Police Chief, Pascal Moretti, has made it his personal mission to remind succeeding generations about the critical role of American troops in liberating the community. When asked why he was interested in organizing these celebrations, “Our children must understand the price of liberty,” Moretti said. “The blood they shed. What they did for us is wonderful. They gave us the most beautiful gift in the world: freedom.”

Toward this end, he created the Moselle River 1944 Organization to honor the Allied soldiers who liberated the cities and towns on both banks of the Moselle River. Last month, more than 50 veterans returned to Metzervisse. This time instead of being met with a hail of gunfire or the thundering sounds of artillery, they were greeted with bands and a chorus of thank-you.

For his work, Chief Moretti has been recognized with the Freedom Award at the America’s Freedom Festival in Provo, Utah. Yet perhaps his greatest reward comes from the satisfaction of knowing that a new generation of French children is learning about a time in their country’s history. “Our mission is to ensure our liberty for posterity.

American school children learn that in the 18th century it was Lafayette and the French who helped secure the establishment of the United States. It seems altogether fitting that French school children in the 21st century should learn that theSmiths and Messinas of the United States returned the favor during World War II.

I commend Chief Moretti for his efforts to honor our veterans of World War II and doing his part to sustain the historic bonds of friendship between our two nations.

With preparations underway to commemorate the 60th anniversary of V–E and V–J Day next month at the National World War II Memorial, this admirer of the Greatest Generation, reminds us all that we should take a moment and thank those who served—and are now serving. And we must never forget those 400,000 Americans who gave their lives during the War so that the lamp of liberty would continue to shine.

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

SPEECH OF

HON. CAROLYN B. MALONEY OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 2005

The House in Committee of the Whole House of the State of the Union had under consideration the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes.

Mrs. MALONEY. Mr. Chairman, I rise in opposition to H.R. 3199, the “USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005.”

While I strongly agree that we must take every step possible to keep our nation secure, we should not be trampling on the rights of innocent Americans. When the original PATRIOT Act was passed in the weeks following the terrorist attacks of September 11, 2001, sixteen provisions were scheduled to sunset this week. However, because of the importance of this legislation, it deserves to be carefully reviewed by Congress.

The bill before us today would make permanent fourteen of those sixteen provisions thereby relinquishing this body of its oversight responsibilities. This is unacceptable. I have serious concerns about how this Administration has applied and may apply in the future the provisions included in this bill. Our constituents should be able to trust that we will actively work to protect their civil liberties by fighting against any abuses of those rights.

I am disappointed that the Rules Committee denied two amendments that I offered, including one that would give the Privacy and Civil Liberties Oversight Board, created by the Intelligence Reform and Terrorism Prevention Act, the leeth to do its job, and one that would make permanent the temporary relief given to non-citizens, who were lawfully present or a beneficiary of the September 11th Victims Compensation Fund, in the original PATRIOT Act. I believe that these very worthy amendments at least deserved an open debate on the House floor.

Moreover, an amendment offered by Representatives Sanders (I–VT), which already has passed this body, was denied by the Rules Committee. His amendment, which I strongly support, would prohibit the FBI from using a USA Patriot Act Section 215 order to access library circulation records, library patron lists, book sales records, or book customer lists, and it would help to restore the privacy that library patrons had before the passage of the USA Patriot Act four years ago.

I am concerned that the Intelligence Reform and Terrorism Prevention Act passed by the Senate last month was met with a hail of gunfire or the thunde...
The House in Committee of the Whole on the State of the Union had under consideration the bill (H.R. 22) to reform the postal laws of the United States:

Mr. SHAYS. Mr. Chairman, I rise in support of H.R. 22, the Postal Accountability and Enhancement Act.

The Government Reform Committee, of which I am vice-chairman, has held hearings and briefings on postal reform for several years now, and I am glad to see our efforts come to fruition today.

The United States Postal Service has been forced to cut back on its service due to serious financial challenges. H.R. 22 is an effort to modernize our Nation's postal laws for the first time in 35 years. It is intended to help ensure the United States Postal Service can survive in an increasingly competitive marketplace.

Due to the increasing use of electronic forms of communication, such as email, first-class mail volume is declining, but postal addresses are increasing. In lieu of simply increasing rates, an entire reform of the postal service is necessary.

H.R. 22 would require the Postal Service to operate in a more business-like manner by creating a modern system of rate regulation, establishing fair competition rules and a more powerful regulatory commission.

H.R. 22 will also promote both price stability and pricing flexibility. Giving the Postal Service pricing flexibility will allow USPS to price its core mail products in a way that keeps them competitive and, quite literally, in the mail. By limiting the amount of future postage rate increases, however, the bill also takes an important step towards encouraging the Postal Service to increase mail volume and keep the mailbags full while giving mailers predictability and stability.

Universal postal service should be the first and foremost goal of reform. This can only be accomplished if the financial and operational crisis facing the United States Postal Service is met with innovative and bold action.

HONORING COLONEL BILL GUINN
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Mr. SHUSTER. Mr. Speaker, I rise today to honor Colonel Bill Guinn, Commander of Letterkenny Army Depot in Chambersburg, Pennsylvania. Colonel Guinn, hailing from San Bernardino, California has served for an unprecedented 3 years as Commander of the base.

July 29th 2005, will complete his command duty, after which he will undoubtedly enter into yet another endeavor that will highlight his talents as a true patriot and courageous defender of freedom. He has commanded the 123rd Main Support Battalion, 1st Armored Division in Bosnia, Croatia, and Germany, and has been honored with the Defense Superior Service Medal, the Legion of Merit Medal, the NATO Medal, and the Army Achievement Medal with Oak Leaf Clusters.

During his tenure Colonel Guinn supported NATO missions in Bosnia of utmost importance for the Implementation Force and Stabilization Force. During his time in Bosnia, Colonel Guinn was given the task of supporting and protecting units and outposts spread across the terrain assigned to Task Force Eagle, of NATO. This would prove a perilous job, as much of the land was still active with mines.

With unwavering courage and spirit, Colonel Guinn deployed his troops on numerous occasions through dangerous territory in order to defend and support others, all in the name of protecting freedom and liberty. After 26 months of tough command duty, Colonel Guinn was chosen to attend the Industrial College of the Armed Forces. He spent the year furthering his already vast knowledge and expertise in military service.

This education would come in handy in June of 1999, when he assumed responsibility of coordinating the United States’ support in the fledgling nation of East Timor. A daunting task, the region was strife with civil unrest and armed conflict due to its newly found independence. In addition to the civil aggregation, matters were made more complicated due to the fact that National Command Authority did not want the United States to lead the mission. However, due to Colonel Guinn’s impeccable diplomatic ability and statesman attributes, he was able to plan and execute the first major deployment of contracted support to military forces. The mission was a success due to the Colonel’s personal involvement from inception to conclusion, and helped to create a more stable region.

In July of 2002, Colonel Guinn took command of Letterkenny Army Depot in Chambersburg, Pennsylvania. At the time of his entrance, Letterkenny was at a point of its lowest workload and staffing levels in history, due to his expertise, skill, and command. Letterkenny’s workload, efficiency and output as more than doubled. His superior military ability, strong patriotism, and unyielding sense of duty give me great pride in calling him one of my constituents. The citizens of Chambersburg would join me in giving him my proud congratulations on his vast accomplishments.

HONORING MR. CARL RICCObONO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Today, The Creative Coalition and The American Federation of Teachers honor Mr. Riccobono with a 2005 Spotlight Award for Teaching Excellence.

The Creative Coalition is the leading non-profit, nonpartisan, social and public advocacy organization of the entertainment community. Founded in 1989 by prominent members of the creative community, The Creative Coalition is dedicated to educating and mobilizing its members on issues of public importance, primarily public education, the First Amendment, and runaway production. Headquartered in New York City, The Creative Coalition also has offices in Washington, D.C., Los Angeles and San Francisco.

The Creative Coalition’s partner in presenting this award, The American Federation of Teachers, represents 1.3 million teachers, paraprofessionals and other school-related personnel, higher education faculty and staff, healthcare workers, and state and local government employees.

Joining Mr. Riccobono in Washington, DC, to accept his award is one of his former students, actor and member of The Creative Coalition, Steve Buscemi. Mr. Buscemi was a student in Mr. Riccobono’s fourth grade class at Shaw Avenue Elementary School, a public school in New York City, 30 years ago. Mr. Riccobono profoundly influenced Mr. Buscemi as well as countless other students over the past three decades. He has shown a tremendous commitment to the field of teaching.

I join Mr. Riccobono’s family, friends, and colleagues in congratulating him today on this achievement and wishing him well. I also recognize both The Creative Coalition and The American Federation of Teachers for their dedication in promoting public education. Public schools and the teachers in them play an essential role in the guidance of our children and shaping of our future. As such, I commend The Creative Coalition and The American Federation of Teachers for their support of public schools and for honoring the achievements of educators like Mr. Riccobono.

HONORING THE ACCOMPLISHMENT OF LUKE A. HOCHEvAR
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Mrs. MUSGRAVE. Mr. Speaker, I rise today to congratulate Mr. Luke A. Hochevar on being chosen by the Los Angeles Dodgers as the 40th pick in the 2005 Major League Baseball draft. Being drafted by a Major League Club is a rare accomplishment achieved by only about 1,500 high school and college ballplayers across the country each year. To be selected in the first five rounds means this talented young man is considered one of the top 150 or so prospects in the entire nation.

Luke was born September 15, 1983 in Denver, Colorado, to Brian and Carmen Hochevar. He has one brother, Dylan, and a sister, Brittany. Mr. Hochevar attended Fowler High School in Fowler, Colorado, where he was coached by his father. He was drafted by the Los Angeles Dodgers in the 3rd round following his senior season of 2002. Luke, however, chose to attend the University of Tennessee and play baseball there.
Mr. Hochevar’s college baseball career was successful, playing three years for the Tennessee Volunteers. He pitched 273 strikeouts and ranks second on Tennessee’s career list. As a student he studied Sport Management and made the Academic Honor Roll his sophomore year. I commend his athletic and academic achievements.

Mr. Speaker, I applaud Luke for his dedication to the game and to his studies. I also commend his family for their support. I wish Luke the best of luck as he starts his professional career with the Los Angeles Dodgers.

**PERSONAL EXPLANATION**

HON. JIM GIBBONS
OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GIBBONS. Mr. Speaker, I rise today to explain why I was not present during votes on July 25 and July 26, 2005 during the first session of the 109th Congress. Due to the Base Realignment and Closure (BRAC) Commissioner Anthony Principi’s visit to the Reno Air Guard and Hawthorne Army Depot, I was unable to return to Washington, DC for votes.

If present on July 26, 2005, I would have voted “yea” on rollcall votes Nos. 417, 418, and 419. The first vote was on H.J. Res. 59, the second was H. Con. Res. 181 and the third was H. Res. 376. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted “yea” on these rollcall votes.

If present on July 26, 2005, I would also have voted during rollcall votes Nos. 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, and 431.

The first series of rollcall votes Nos. 420, 421, 422, and 423 were on H.R. 3200, H.R. 3283, a Motion to Instruct Conferences on H.R. 2361, and H.R. 2977. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted “yea” on these rollcall votes.

The second series of rollcall votes Nos. 424, 425, 426, and 427 were on the Kind of Wisconsin Substitute Amendment on H.R. 525, a Motion to Recommit with Instructions on H.R. 525, Final Passage of H.R. 525, and finally on H.R. 2894. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted “yea” on these rollcall votes.

The third series of rollcall votes, Nos. 428, 429, 430, and 431 were on the Pence of Indiana Amendment on H.R. 22, the Flake of Arizona Amendment to H.R. 22, a vote on the Final Passage of H.R. 22 and finally a vote on H.R. 3339. I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted “no” on rollcall votes Nos. 428 and 429, but would have voted “yea” on rollcall votes Nos. 430 and 431.

Thank you for your time and careful consideration of this important matter.

HONORING SRA JOHN A. LOCKHEED, AIR NATIONAL GUARD “OUTSTANDING AIRMAN”

HON. GREG WALDEN
OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. WALDEN of Oregon. Mr. Speaker, colleagues, I rise to honor an esteemed member of the United States Air Force, Senior Airman John A. Lockheed, an Air Traffic Control Journeyman with the 270th Air Traffic Control Squadron stationed at Kingsley Field in Oregon’s Second Congressional District.

The United States Air Force has presented Airman Lockheed with their most prestigious award and the Force’s highest honor for an enlisted member of the Air National Guard by selecting him as 2005’s most “Outstanding Airman,” an honor given to only one enlisted Air National Guard member each year.

The Air Force boasts a long tradition of talent, service and dedication, so to be recognized as one of the elite speaks volumes of Airman Lockheed’s abilities and outstanding performance.

After volunteering for deployment to Iraq in support of Operation Iraqi Freedom, Airman Lockheed was quickly certified to control air traffic. The Air Force so trusted his skill, they selected him to be the facility trainer for incoming personnel. His duties ranged from rigidly securing airspace clearances for aircraft evacuating wounded troops to controlling aircraft returning from completed missions, and he was the watch supervisor’s choice for handling even the most complex traffic issues.

Ever ready and capable of tackling challenging situations as they arose, Airman Lockheed immediately assumed control of half of Iraq’s airspace on one occasion when another center lost radio and radar coverage.

In addition to volunteering for a 120-day extension of his tour in Iraq, Airman Lockheed extended his spirit of service beyond traditional roles. He was active in a program that delivered school supplies to children called “Operation Crayon,” served on the Kingsley Field Honor Guard, was the unit Combined Federal Campaign Representative, and volunteered with the local Boy Scouts.

Most impressive is that this record of accomplishment has been built in a short amount of time. Airman Lockheed, 21, enlisted in the Oregon Air National Guard in 2002 and just completed basic training and air traffic control school in 2003.

America’s men and women in uniform are truly the finest in the world, and this tradition of excellence continues through the service of patriots like Senior Airman John Lockheed. A simple thank you cannot fully express my gratitude for his commitment and dedication.

I would like to extend my heartfelt congratulations to Airman Lockheed on this prestigious award. The United States Air Force and the entire United States are extremely fortunate to benefit from his service. It is an honor to represent him in the United States Congress.

WE BECOME SILENT

HON. DENNIS J. KUCINICH
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. KUCINICH. Mr. Speaker, the following is an abridged transcript of a film entitled “We Become Silent,” written and produced by Cleveland resident, Kevin Miller. The topic is the potential effects of the Codex Alimentarius Commission’s guidelines on vitamin and mineral supplement safety.

**NARRATOR: FEAR**

Its’ darkness causes humanity to make awful choices. With dreadful power, fear can rule our lives—and paralyze lofty hopes and dreams . . . in an instant.

It is the antithesis of god, fear is—a destructive dark side—the ghost that haunts the brain. It is a universal trait—a global affliction—and a tool deployed all-too-often by those intent on inflicting control over the masses.

Robert Verkerk, Ph.D.—Fear preys on the most vulnerable among us. Fear sells. And there is fear predictably more detrimental than in the fields of medicine and human nutrition.

Narrator: Fear anesthetizes us . . . it coerces us . . . making us believe that we can do little on our own to prevent or treat disease . . . and forces entire NATIONS to kneel at the altars of orthodox medicine.

Robert Verkerk, Ph.D.—And of course, the fear-mongers are also prey on the fear of disease. And the solution the fear-mongers give us are drugs, yet drugs are the single most dangerous thing we can put in our mouths.

Narrator: It’s a sad fact that Pharmaceuticals have become the opium of modern man—and make no mistake, we are addicted.

Last year, between 3-5 billion prescriptions were written in the U.S. alone. And for all of its’ miracles and heroism, western medicine has also left disaster in its’ wake. The burdens of drug side effects are being exposed daily: Prozac, Vioxx, Celebrex, Baycol, Lariam, and Zoloft—just to name a few—are deeply uncomfortable and sometime that secrecy and sales have often circumvented safety.

There’s also the crippling burden of health insurance, and the MILLIONS who are debilitated by a wave of red ink, bankrupted as a result of an unexpected illness that they could not afford. As if by design, health choices are limited, information is frightfully scarce, lives are ruined . . . and the truth be damned.

Scott Bukow: Business is business, and people don’t like competition. Smart business people may not always do something that’s best for the people or for someone’s health.

Narrator: In addition to these painful realities of life, however, an abundance of evidence now suggests . . . that this holy reverence towards modem medicine—may be killing us.

Carolyn Dean, MD—I wrote Death by Modern Medicine, inspired actually after writing a paper called Death by Medicine . . . And when I found after analyzing government databases and peer-reviewed journal articles . . . I found that 784,000 people are dying annually, prematurely, due to modern medicine intervention. When I added up the figures I could get my hands on, I came up with that astounding number, and also found studies that said we’re only capturing 5-20 percent of the actual deaths.

Simmon Wilcox, MD—We’re clear that the status quo is equal to a premature death in
CONGRESSIONAL RECORD — Extensions of Remarks
July 27, 2005

Kevin P. Miller: Well obviously they would respond by saying that it was the only natural alternative to a series of chemical drugs, and that’s a concern to people who want natural alternatives. Since the cases against Prozac have been so high, people would question whether L-Tryptophan is being judged under the same standard, if you will.

Michael R. Taylor: Well...FDA Employee Interrupts: Kevin, that wasn’t on the list of things we were going to go over.

Kevin P. Miller: Well, he mentioned L-TRYPTOPHAN and I thought I would follow up.

Narrator: As the Producer tried to get an answer from the deputy commissioner of the FDA, Mr. Taylor seemingly lost his patience with the tone of the interview.

Michael R. Taylor: Well...you turn the camera off so we can talk... (LONG PAUSE). You know, I’m happy to talk about this but I don’t want to spend the whole morning in it.

Narrator: But of course, Mr. Taylor was anything BUT happy to discuss the safety record of Prozac versus the amino acid L-TRYPTOPHAN—which the FDA banned outright when Prozac was approved by the agency. And it is important to note that the Food and Drug Administration and Mr. Taylor’s wife—Christine Lewis-Taylor— to World Health Organization, where she is now chairwoman of the “the Nutrient Risk Assessment” project.

Jim Turner: I don’t think you can say that anybody from the FDA has ever been a friend of dietary supplements. Anybody... they are friends of the classical reductionist scientific system that is based on cause and effect and doing a bunch of huge costly studies which are the backbone of the pharmaceutical industry which are the driving force of our health care system which is driving us into bankruptcy and killing between 200,000-700,000 people a year.

FDA Film, Health Fraud Racket (1966): Some of them honestly believe in the useless medication. More, however, are the bunkum artists, without pity or conscience, willing to risk the lives of fellow human beings to line their own pockets."

Narrator: Institutional hypocrisy and bias are endemic to the Agency. In fact, the FDA has made no secret of its’ intentions to harmonize the U.S. vitamin and mineral standards with Codex, thereby reducing the dosing of natural vitamins and minerals. Bad thinking all the way through their own pockets.

Michael R. Taylor, deputy commissioner for policy, FDA: "There has been a lot of discussion about the Nutrient Risk Assessment, the FDA refused to answer any questions about Codex, dietary supplements—even labeling—for this document interview with Michael R. Taylor, then-deputy commissioner for policy at FDA, it is obvious that the agency is unaccustomed to honest intellectual discourse."

Kevin P. Miller: You stated your concern and the FDA certainly has on L-Tryptophan. What about your concern about something like a vitamin and mineral supplement, to drive them onto the international stage for vitamins and minerals. Bad thinking all the way around.

Narrator: Verkerk, Ph.D: We are at a stage in society when a large number of people, consumers and patients, are waking up to the fact that the healthcare system that they’ve been paying for is not delivering the care they need. They’re beginning to appreciate that very often if they
Rep. Ron Paul: The WTO is said to be set up for free trade. I happen to like free trade. I like low tariffs and I like goods and services flowing freely.

Rep. Peter DeFazio: Since economics in college I was always skeptical of the whole theory of free trade and it actually crystallized around the NAFTA and WTO Agreement.

Rep. Ron Paul: I am a champion of national sovereignty, so I do not like the idea of getting involved with what the Founders called 'entangling alliances.'

Rep. Peter DeFazio: I remember talking to Mickey Kantor the President's special trade representative. I studied a little bit and I said I can not understand how we are going to bind ourselves to this agreement which has a secret dispute resolution process, which has no rules regarding conflict of interest and they will essentially pre-empt U.S. laws.

Rep. Ron Paul: But then when you go to the next step of becoming a member of the World Trade Organization, it means to me that we as a people and as a Congress, we give up too much of our responsibilities and prerogatives.

Rep. Peter DeFazio: And he said no no no you don't understand. They can't pre-empt our laws. Then you have the right, they can't fine us for having our laws and we can pay for perpetual fines because we have laws that protect consumers of the environment or we can repeal our laws.

Rep. Ron Paul: But now we are talking about turning over to a world organization that is going to force harmonization.

Rep. Peter DeFazio: And so it's working as designed as far as they're concerned, which is to protect corporate interests and override government and stick it to consumers.

Rep. Ron Paul: I do not understand why that we would under the name of free trade and globalization and pretend that they are on the side of freedom. But actually they are on the side that they say they are on the side of freedom.

Rep. Peter DeFazio: If there is a higher corporate good to be served by breaking the protection of certain big corporations.

Rep. Ron Paul: So we do what the WTO tells us and that's why I am very leery of the WTO and I just soon we get out of the WTO.

Rep. Peter DeFazio: And so it's the im- mate of government reaching into our health lives which would be unbelievable, not even our government, some bureaucratic, diffuse, multinational secretive government.

Rep. Ron Paul: It's the power in the WTO that we have to deal with ultimately... and I do not think our country, our people... and corporate lobbyists became the masters of the universe.

Rep. Peter DeFazio: Alarm bells are going off everywhere. The American people are waking up to the fact that this is being done... it and it is only a matter of time until congress is beaten into coming around on these issues. But if we don't do it soon it may be too late.

Narrator: If it is true what a great leader once said, that "Our lives begin to end the moment we become silent about things that matter," then freedom has already begun to erode because of our own complacency, our own sov- erign rights fade away, as surely as the ink on an old Declaration is removed by time.

The pursuit of Happiness... the promise of equality... of personal choice... are chipped away by complacency... and, over time, become barely visible in the world around us. If we had treasured it more, some of the world's most cherished freedoms would have remained intact. The nightmare of the future—no interference—if we had exercised our freedoms everyday, every week—just like the forces of power and money have done... if only.

Gerald Kessler: I think we should all get together and fight for our rights. I think that these are God-given rights. I think that this was a legacy that was given to us at the beginning of time... and we should fight like crazy so that people can maintain their rights, from now and forever.

Rep. Peter DeFazio: And if you do not speak up... the only way to have good government... and... you're going to lose it. They have come together and be counted... and if you put enough effort, the good guys win. It needs to be done.

Narrator: This, then, is your call to action... it is one of enlightened self-interest... a righteous cause that even the high priests of profit cannot defeat. It is a real drug war... a fight for medical freedom... a struggle for human rights.

Joseph Bassett—And so you get the government, and corporate lobbyists became the masters of the universe.

Narrator: Modern medicine has led us to Babylon... and a wasteland of expensive, often ineffective options. If we do not act—if we become silent—governments will be free to replace the teachings of all ages with toxic lies. Timeless medicines—foods for human health—will be turned into toxic drugs and often ineffective options, If we do not act—if we become silent—governments will be free to replace the teachings of all ages with toxic lies. Timeless medicines—foods for human health—will be turned into toxic drugs and often ineffective options.
CONGRATULATIONS TO COMMANDER PETE RIEHM, ON THE OCCASION OF HIS RETIREMENT

HON. JO BONNER
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to Commander Pete Riehm on the occasion of his retirement as Commanding Officer of the Navy and Marine Corps Reserve Center in Mobile, Alabama.

For the past three years, Commander Riehm has commanded this facility, with its complement of 200 Navy Reserve personnel and 250 Marine reservists, with an incomparable level of leadership and professionalism.

A graduate of the University of Houston, Commander Riehm received his master’s degree in military arts and sciences from the Command and General Staff College at Fort Leavenworth, Kansas. Following his commission in 1985, Commander Riehm was assigned to the USS DAHLGREN (DDG 43) as Missiles Officer and Damage Control Assistant. Following that assignment, he was transferred in 1989 to that assignment as an officer recruiter at College Station, Texas. In 1991, during Operation Desert Storm, he was stationed in Riyadh, Saudi Arabia, as the staff liaison to the Royal Saudi Naval Forces.

In 1996, he was transferred to Naples, Italy, and was attached to the North Atlantic Treaty Organization’s (NATO) Naval Forces Southern Europe Command. Between 1997 and 1998, he served four months; temporary active duty as naval liaison officer to the Stabilization Force stationed in Sarajevo, Bosnia, and was attached to the staff of the fleet commander during the Kosovo campaign. Just prior to receiving his command in Mobile, Commander Riehm completed more military education courses in Newport, Rhode Island, and then served as Damage Control Assistant on board the USS IWO JIMA (LHD 7) during its pre-commissioning, transfer, and shakedown cruises.

Commander Riehm has been recognized for his outstanding performance and career with several awards and decorations, including two Defense Meritorious Service Medals, four Navy and Marine Corps Commendation Medals, and three Navy and Marine Corps Achievement Medals.

Along with his tremendous involvement in the activities and mission of the Navy and Marine Corps Reserve Center, Commander Riehm is also heavily involved in his community. A resident of Mobile, Alabama, he has been involved with numerous local organizations, including the Mobile Bay Area Veterans Day Commission, the Gulf Coast Chapter of the Korean War Veterans Association, Operation Hope Front, the Navy League, and the Alabama Chapter of the Military Officers Association. He also serves as a member of the Mobile Area Chamber of Commerce’s Military Affairs Committee, and was part of a group of Navy personnel which worked with Mobile’s Forest Hill Elementary School as part of the Partners in Education program.

Mr. Speaker, I ask my colleagues to join me today in recognizing Commander Pete Riehm for his tremendous contributions to the citizens of the First Congressional District of Alabama, the Navy and Marine Corps Reserve Center in Mobile, and the entire United States Navy. The experience and enthusiasm he has brought to his job and the professionalism he has displayed throughout his career are unquestioned and unparalleled. He is an asset to his office and to the United States military, and I am proud and honored to call him my mentor. I wish him and his family—his son, Justin, and his daughters, Jessica and Jennifer—much happiness and success as they enter this new phase of their lives.

IN HONOR OF SPECIALIST JAMES O. KINLOW

HON. CHARLIE NORWOOD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. NORWOOD. Mr. Speaker, I rise today to pay tribute to Specialist James O. Kinlow who died while serving our country in the war in Iraq.

Specialist Kinlow’s family resides in Thomson, Georgia and his family resides in Lincoln, Georgia. The active soldier was assigned to a company, 121st Infantry Regiment, Army National Guard, Valdosta, Georgia.

His life was taken by an improvised explosive device that detonated near his vehicle on July 24, 2005.

Our heartfelt condolences and prayers go out to Mr. Kinlow’s family and friends. His service and commitment to freedom will never be forgotten.

HONORING FORMER PRESIDENT WILLIAM JEFFERSON CLINTON ON THE OCCASION OF HIS 59TH BIRTHDAY

SPEECH OF
HON. RAHM EMANUEL
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. EMANUEL. Mr. Speaker, I am proud to rise in recognition of the fifty-ninth birthday of former President William Jefferson Clinton, a man whose Presidency was marked by great strides in both global tranquility and economic prosperity.

As a young man, President Clinton was an excellent musician and a scholar, attending Georgetown University, Yale University, and, in 1968, winning a Rhodes scholarship to Oxford University.

President Clinton diligently served the citizens of Arkansas as both Attorney General and Governor before he went on to serve the country as a whole as the forty-second President of the United States of America.

The Presidency of Bill Clinton was a period of unprecedented peace and prosperity, marked by America’s lowest unemployment rate in modern times, the lowest inflation rate in 30 years, and the highest home ownership rates in our country’s history. President Clinton proposed the first balanced budget in decades and left the country with a budget surplus.

President Clinton was a strong leader who improved America’s international standing and showed compassion towards people around the world. President Clinton rallied the members of the North Atlantic Treaty Organization to put an end to ethnic cleansing in the Balkans and played a major role in the effort to end violence in Northern Ireland. His service to the people of the world continues years after his Presidency, including his recent efforts with former President George H. W. Bush in spearheading the United States effort to provide private aid to victims of the devastating tsunami that struck southeast Asia.

It was an honor to serve in the White House under President Clinton, as he helped extend health insurance to millions of uninsured children, placed 100,000 new police officers on the street, passing the North American Free Trade Agreement, reformed welfare, raised the minimum wage, and balanced the federal budget.

Mr. Speaker, I thank the gentlemens from New York for introducing this resolution, and I join my colleagues in wishing a happy and healthy 59th birthday to our 42nd President and my friend, William Jefferson Clinton.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFFRAGISTS

SPEECH OF
HON. RAHM EMANUEL
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.J. Res. 59, expressing the support of Congress for the establishment of a day to honor the women suffragists who
fought for and won voting rights for women in the United States.

On July 19, 1848, Lucretia Mott and Elizabeth Cady Stanton convened the first women’s rights convention in Seneca Falls, New York. From that time onward the leaders of the women’s suffrage movement exhibited boundless courage and unwavering commitment to their quest for equal representation.

Their journey was neither quick nor painless, and leading suffragists experienced public scorn and official persecution during nearly a century of campaigning. The women’s rights movement attempted different methods of protest ranging from picketing and marches to hunger strikes. One suffragist, Alice Paul, led a famous protest in which she and several other women chained themselves to the White House fence.

These and similar acts of civil disobedience often landed the suffragists in jail. In 1872, when Susan B. Anthony and a group of women voted in the presidential election in Rochester, New York, she was arrested and fined. However, no amount of threats or abuse could deter her or the other suffragists. At the close of her trial and with the whole nation watching, Susan B. Anthony made a fiery speech, stating “Resistance to Tyranny Is Obedience to God.”

Even in the face of persecution, this unwavering commitment to justice, democracy, and the ideals set forth in the Constitution of the United States ultimately won the day. On August 26, 1920, the 19th Amendment to the United States Constitution granted women in the United States the right to vote.

The women who led the fight for equal voting rights deserved our recognition not only for their tireless pursuit of justice in the face of persecution, but also for their tremendous contribution to the creation of a more perfect Union.

The success of the suffragists proved that even a prejudice rooted in centuries of custom and reinforced by all of the laws of the day cannot stand indefinitely against reasoned appeals to the ideals upon which our great nation was founded.

Mr. Speaker, I am pleased to join with my colleagues in support of setting a day to commemorate the contributions of these courageous Americans.

THE REPORTING REQUIREMENTS BY THE INTERNATIONAL TRADE COMMISSION

HON. PHIL ENGLISH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. ENGLISH. I rise to provide clarifying remarks about the reporting requirements by the International Trade Commission, related to China’s exchange rate regime. The intention is that Congress be provided with a report that will better inform us in the exercise of our policy-making responsibilities on these issues.

Section 8 calls for a study from the U.S. International Trade Commission within 12 months, regarding the trade and economic relations with the United States and the People’s Republic of China. We want the ITC to look closely at the effect of China’s economic policies on our trade with China, as well as other factors that affect U.S.-China trade, with a focus on key U.S. industries that compete with Chinese producers or service providers.

Among other things, we would like the ITC to examine the relationship of China’s foreign exchange rate regime to its financial, trade, foreign investment, and industrial policies. We believe these policies are all interrelated and would like an explanation of how they operate and how they are related to one another. The ITC should focus not only the regime of a fixed peg to the U.S. dollar that China has maintained in recent years, but also the recent announced revaluation and peg to a basket of currencies, as well as any further modifications in their foreign exchange rate regime.

The ITC should also describe the range of expert opinion concerning China’s foreign exchange rate regime and U.S. and Chinese trade patterns and the U.S. economy in general. We expect the ITC to focus on the area of expertise, i.e. trade issues, and leave questions related to appropriate currency policy to those institutions better suited to answer such questions, such as the U.S. Department of Treasury.

However, we want the Commission to provide additional analyses, to the extent feasible, that may help us better understand the nature of the relationship between the currency regime and U.S. China trade flows, particularly if the ITC thinks such analysis might help other institutions provide better analysis of broader policy questions. The ITC should certainly consult with the Department of the Treasury, the President’s Council on Economic Advisers, and the Congressional Budget Office, all of which have performed economic analyses on currency matters.

Mr. Speaker, the story of the Little Rock Nine remains one of the most powerful illustrations of triumph over adversity within our modern history. It is our duty as leaders to ensure that the past is not only remembered but also distinguished and honored as it so rightly deserves. On the 50th anniversary of this milestone in the battle to gain equality both under law and in life, we are given the opportunity to bring national recognition to these modem day heroes. I urge my colleagues to support this resolution.

MR. TONY RAYMONDO LIFETIME OF SERVICE

HON. LINDA T. SÁNCHEZ
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. LINDA T. SÁNCHEZ of California. I want to recognize and congratulate one of the most distinguished constituents in the 39th Congressional District, Mr. Tony Raymondo. I commend him for his invaluable contribution to his family, and to his company—Granitize Products, Inc. In fact, I also want to commend Mr. Tony Raymondo for his involvement with the community. As Granitize prepares to celebrate its 75th birthday in 2005, we want to honor Mr. Tony Raymondo for his outstanding contribution and outstanding service to Granitize Products, Inc.

Mr. Tony Raymondo has been a great patriarch to his family members. Raymondo has been a devoted husband to his wife Betty, and a supportive father of two sons, and one daughter, Marty, Tony, and Lisa. Mr. Raymondo has been a role model to his children by displaying hard work and dedication to his family and to his company. His family has blossomed to include fifteen grandchildren in his immediate family. Though committed to his work, he has always put family first. This commitment has helped to create a strong immediate and extended family.

Furthermore, Mr. Raymondo has made the most of his leisure time by refining his many passions. For instance, Mr. Raymondo has a vast knowledge of making and producing his...
own wine. In fact, this activity goes hand-in-hand with his other passion, cooking. Mr. Raymondo is known for his distinguished Italian cooking among his friends and family.

Mr. Raymondo also enjoys working with his hands by taking part in other activities such as woodworking and photography. Thus, Mr. Raymondo even opened a small shop and a photography lab within his house.

Mr. Raymondo has volunteered countless hours for school fundraisers to gather funds to purchase school utensils for schools. He is known as a very generous person that enjoys helping people. The fire and police department has also benefited from Mr. Raymondo generosity. He has volunteered his time to these two agencies.

Professionally, Mr. Raymondo broke through barriers within the Granitize Products, Inc. Mr. Raymondo began his career/profession with Granitize Products, Inc., as a cleaner in the chemical room in 1954. Having excelled as a cleaner, Mr. Raymondo moved up the ranks quickly and worked his way through every job in the company until holding the title of President and CEO, the position he holds today. Mr. Raymondo was the one responsible in venturing out into different markets other than just the automotive market.

He took the initiative thirty years ago to seek other potential markets. As a result, he found fiberglass manufacturing beneficial to society and lacking the proper wax to combat molds. Thus, he worked to create a new product to combat various types of molds that would allow manufacturers to make more products, more efficiently, and with fewer problems, and he showed them how. He created the formulas that are still used today in the TR Division of Granitize. Today Granitize and TR combine to serve and sell the TR Division of Granitize. Today Granitize and TR combine to serve and sell.

**EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFFRAGISTS**

**SPEECH OF**

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

**Monday, July 25, 2005**

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of H.J. Res. 59, which honors and commemorates the contributions of women suffragists who fought for and won the right of women to vote in the United States.

The women's suffrage movement began with women speaking out for women's rights to vote. The fire and police department has also benefited from Mr. Raymondo generosity. He has volunteered his time to these two agencies.

Mr. Speaker, this weeklong celebration of National Health Center Week brings recognition to the uninsured individuals living in America. This group not only includes 8.4 million children, but also homeless and migrant populations across the country. Of those that do have health coverage, studies have estimated that as many as 65 million individuals remain uninsured. Countless others lack easy and affordable access to quality care providers.

Health centers are an indispensable component of the continuing effort to secure medical care for underserved individuals. These community-based, non-profit organizations bring health services to impoverished areas, which are disproportionately affected by these ever-present health care disparities. Through partnerships with churches, businesses and other community initiatives, health centers are able to touch those that are typically unreachable or marginalized by existing healthcare conglomerates.

Health centers have become American institutions and fundamental elements of our daily lives. These organizations, operating with minimal resources and small, committed staffs are able to serve hundreds within their communities. In the state of Florida alone, approximately 500,000 patients are annually served through local health centers.

Mr. Speaker, this weeklong celebration of health centers brings recognition to the unsung heroes of the healthcare industry. By raising awareness we are not only showing our appreciation to those that contribute to these local groups, but we are also bringing attention to the healthcare alternatives that are available to our communities. I urge my colleagues to lend their support to this resolution.

**SUPPORTING GOALS AND IDEALS OF NATIONAL HEALTH CENTER WEEK**

**HON. ALCEE L. HASTINGS**
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

**Wednesday, July 25, 2005**

Mr. HASTINGS. Mr. Speaker, I rise today in support of H. Res. 289, a resolution supporting the goals and ideals of National Health Center Week. From August 7–13, numerous organizations will collectively promote quality and preventative medical care through local health centers.

It has become increasingly apparent that our healthcare system is not only lacking, but also failing those it is meant to serve. There are currently an estimated 45 million uninsured individuals living in America. This group not only includes 8.4 million children, but also homeless and migrant populations across the country. Of those that do have health coverage, studies have estimated that as many as 65 million individuals remain uninsured. Countless others lack easy and affordable access to quality care providers.

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**U.S. TREASURY DEPARTMENT REPORT ON SECTION 40 OF THE BRETTON WOODS AGREEMENTS ACT**

**HON. PHIL ENGLISH**
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

**Wednesday, July 27, 2005**

Mr. ENGLISH. Mr. Speaker, my colleague, Chairman Oxley, and I have discussed section 6 of my bill that requires the Department of the Treasury to provide a report on how Section 40 of the Bretton Woods Agreement Act “can be better clarified administratively to provide for improved and more predictable evaluation.”

We share the understanding that the Bretton Woods Agreement Act implements the international agreements that established the International Monetary Fund (IMF) and the World Bank Group. As such, there is limited scope of action for the United States Government acting “administratively” to change how the IMF and the World Bank Group operate internally in order to achieve “improved and more predictable evaluation.”

Therefore, to clarify this provision, our intent here is that any report prepared by the Treasury Department would respect these limits. It is also our understanding and intent that any report by the Treasury Department pursuant to this section should provide insight regarding how the Treasury Department and the United States Executive Directors to the IMF and the World Bank Group seek to promote U.S. exchange rate policies within those organizations.

I note that substantially similar language has been considered by the Secretary of the Treasury in the past and those limitations were respected. The Department of the Treasury currently provides some of this information to the United States Congress in other forms. We believe that a discussion of U.S. policy and actions within the IMF and the World Bank Group would be a helpful addition to the policy debate in the U.S. Congress. However, we are not requesting that the Treasury Department submit a report suggesting that the United States Government alone can work administratively to improve IMF and World Bank Group analysis and policy.

**PERSONAL EXPLANATION**

**HON. XAVIER BECERRA**
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

**Wednesday, July 27, 2005**

Mr. BECERRA. Mr. Speaker, on Monday, July 25, 2005, I was unable to cast my floor votes on rollcall numbers 417, 418 and 419.

The votes I missed included a motion to suspend the rules and pass, as amended H. Con. Res. 181, Supporting the goals and ideals of National Life Insurance Awareness Month, and for other purposes; and a motion to suspend the rules and pass,
as amended H. Res. 376. Expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game “Grand Theft Auto: San Andreas” to determine if the publisher intentionally deceived the Entertainment Software Ratings Board to avoid an “Adults-Only” rating.

Had I been present, I would have voted “aye” on roll call votes 417, 418 and 419.

CONGRATULATIONS TO NIALL CASEY, NEW AMERICAN CITIZEN

HON. DONALD M. PAYNE
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in congratulating Mr. Niall Casey of Ballyheigue, County Kerry, Ireland, as he becomes a fellow American citizen. It is a pleasure to extend a warm welcome to him.

Mr. Casey’s journey to America began when he traveled to the beautiful island of Nantucket, Massachusetts in September 1994. Soon he was a part of the Nantucket community, working diligently and earning a reputation as an outstanding carpenter/craftsman. He is well-liked for his engaging personality, warm sense of humor, and impressive knowledge of America history and current events.

Mr. Speaker, America and Ireland have enjoyed a strong and enduring bond of friendship over the years. Those who have come here to begin a new chapter of their lives have enriched America tremendously by sharing their ideas, their literature, their music and their traditions. One of our most beloved Presidents, John F. Kennedy, drew us closer to his ancestral homeland through his wit and wisdom and made all Americans proud. As we continue to strengthen our ties with the people of Ireland, we are pleased to open our hearts and our doors to Mr. Niall Casey.

After taking his citizenship oath, Mr. Casey will celebrate with neighbors and well-wishers, including Carrol F. White III, a friend and colleague.

Mr. Speaker, we are all fortunate to live in this land of opportunity, and Mr. Casey embodies the qualities that have made our nation great: a spirit of entrepreneurship, industriousness, devotion to community, and love of country. I know my colleagues join me in congratulating Mr. Casey on becoming an American citizen and in wishing him continued success.

IN LASTING MEMORY OF JACKSON T. STEPHENS

HON. MIKE ROSS
OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life and legacy of a charitable and respected Arkansas, Jackson T. Stephens. Mr. Stephens passed away on July 23, 2005 at the age of 81. He was a businessman and philanthropist who lived an exemplary life of tremendous accomplishments and I wish to recognize his life and achievements.

Born in Grant County on August 9, 1923, Mr. Stephens grew up on a farm near Prattsville, Arkansas, the youngest of six children. A child of the Great Depression and humble beginnings, Mr. Stephens learned the importance of hard work and how to earn his keep. Prior to attending college, Mr. Stephens joined his father on the family farm, and by the age of fifteen, he held numerous jobs at the Barlow Hotel in Hope. Upon graduation from high school, Mr. Stephens attended the University of Arkansas in Fayetteville and graduated from the U.S. Naval Academy in 1946.

After graduation from the naval academy, Mr. Stephens joined his brother, Witt, in Little Rock at a municipal bond house. By 1956, Mr. Stephens and his brother bought the Fort Smith Gas Company, calling it Arkansas Oklahoma Gas Company, and an oil and gas exploration firm, renaming it the Stephens Production Company. Stephens, Inc. became the umbrella organization for the businesses, and later Stephens Media Group. Mr. Stephens served as Chief Executive Officer of Stephens, Inc. for 29 years, until 1986.

In addition to becoming one of the world’s most successful entrepreneurs, Mr. Stephens was extraordinarily charitable. In 2002, he donated $48 million dollars to the University of Arkansas to create the Stephens College of Business, the largest donation the University of Arkansas has ever seen. Mr. Stephens also gave $20 million to the Episcopal Collegiate School, $20.4 million to the University of Arkansas at Little Rock, $5 million to Harding University, and $10 million to his alma mater, the U.S. Naval Academy. Mr. Stephens once said, “There are only two pleasures associated with money. Making it and giving it away.” For 20 years, Mr. Stephens was the primary contributor for The Delta Project, a program aimed at educating underprivileged children in the Arkansas Delta. Mr. Stephen’s immense generosity did not end with education. Mr. Stephens was also a remarkable supporter of the arts, and permanently donated to the Arkansas Arts Center in Little Rock his personal collection of artwork that includes the works of Degas, Monet, Picasso and Wyeth.

Mr. Stephens also had a tremendous love for golf as evidenced by his enviable handicap of five. He was invited to join the prestigious Augusta National Golf Club in Georgia in 1962, and served as the chairman of the institution from 1991-1998.

Mr. Stephens’s contributions to his community and the state of Arkansas did not go unnoticed. In 1965, Mr. Stephens was honored with the Distinguished Alumnus Citation from the University in 1985, was bestowed an honorary law degree by the University. He received the Horatio Alger Award in 1980 and the J. William Fulbright Award for international trade development in 1989. Mr. Stephens was not only a proud member of the Arkansas State Golf Hall of Fame, but also the Arkansas Business Hall of Fame and the Arkansas Sports Hall of Fame.

From a Grant County farm boy raised during the depression, Mr. Stephens turned a small business acquisition into a global enterprise. Mr. Stephens will not only be remembered for his savvy business entrepreneurial skills, but also for his tremendous generosity to underprivileged children, education, and a tremendous appreciation of the arts.

I extend my deepest and sincerest sympathies to Mr. Stephens’s wife, Harriet, their sons, Steve and Warren, their six grandchildren, Caroline, Jackson, Mason, Miles, John, and Laura; two great grandchildren, Sydney and Bruce; and two adopted children, Kerry LaNoche and James.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

SPEECH OF

HON. LYNN C. WOOLSEY
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 22) to reform the postal laws of the United States:

Ms. WOOLSEY. Mr. Chairman, it is about time Congress took up this important postal reform bill, this legislation and I am happy a bipartisan compromise was reached that meets the needs of postal professionals and the Postal Service.

For years I have been hearing from letter carriers, postmasters, mail handlers and other postal employees about the obstacles that reform bills and the postal service from serving our taxpayers in their fullest capacity. I have also heard about their struggles to retain their benefits and receive a livable wage.

That’s why I am happy to support H.R. 22 today. This postal reform legislation takes a positive step for the future of the United States Postal Service. Now it will be able to remain competitive while protecting hundreds of thousands of jobs held by dedicated workers. Universal service will continue to expand and meet the demands of our modern mail system.

Delivery will improve, rates will become more affordable and communities will have better access to mail services. Mr. Chairman, again I am pleased that this compromise has advanced, and I look forward to an even greater postal system for our Nation.

COOK COUNTY LEADS THE NATION IN SUPPORT OF IMMIGRATION REFORM

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. SCHAKOWSKY. Mr. Speaker, last week, the Cook County Board of Commissioners passed unanimously an historic resolution in support of S. 1033 and H.R. 2330, the Secure America and Orderly Immigration Act of 2005. The resolution urges the passage of common sense and realistic legislation that gives a path to citizenship for America’s hard-working immigrants. This is the first resolution of its kind in the nation and was supported by the Illinois Coalition for Immigrant and Refugee Rights, leaders from business, labor, community organizations and diverse faith traditions, as well as Governor Blagojevich.

America is a nation of immigrants. Nowhere is that more evident than in the 9th Congressional District of Illinois. We rely on the labor
and other contributions of immigrant workers, especially undocumented immigrants. Twenty percent of jobs in Chicago’s growing restaurant, hotel, and manufacturing sectors function because of immigrants who support our economy. I believe this diversity is a source of incredible strength. Immigrants who come to this country work hard to provide for and educate their children and have a better life.

The Cook County resolution recognizes the need for immigration reform. The current immigration system separates families, reduces the effectiveness of national security programs, allows labor abuses, and neglects the hard work and taxes that immigrants contribute to this county. In order for immigrants to succeed, they need immigration laws that make sense, that keep families together, that allow them to send their kids to college, that help them get better jobs and that ease their way to citizenship.

The Secure America and Orderly Immigration Act is our opportunity to enact comprehensive immigration reform. Sponsored in the Senate by Senators McCain and Kennedy and in the House by my Illinois colleague Rep. Gutierrez, it would provide opportunities for immigrants to earn legal status and fully realize their American dream, while protecting our borders.

I support this bipartisan immigration reform plan because it includes access to earned legalization and citizenship, guarantees protections for immigrant and U.S. workers, and addresses the current backlogs of family members who have waited up to ten years to reunite with their families in the United States. Immigrants have historically and continue to this day to contribute to our economy and to the diversity and well-being of our communities. It is time for a comprehensive immigration reform.

I am pleased that the Cook County Board of Commissioners has unanimously passed this historic resolution. I urge my colleagues to look at the resolution, which I hope is the first of many, and support H.R. 2330.

COOK COUNTY BOARD OF COMMISSIONERS RESOLUTION—RESOLUTION SPONSORED BY THE HONORABLE ROBERTO MALDONADO, COOK COUNTY COMMISSIONER

Whereas, the United States were founded by immigrants, who have traveled from around the world to seek a better life; and

Whereas, the United States has an undocumented population of eleven million immigrants, including a half a million in Illinois, more than 300,000 of which reside in Cook County; and

Whereas, our current immigration system contributes to long backlogs, labor abuses, countless deaths on the border and vigilante violence and is in dire need of reform to meet the challenges of the 21st Century; and

Whereas, any comprehensive reform must involve a path to citizenship for these hard-working immigrants, as well as reunification of families and a safe and orderly process for enabling willing immigrant workers to fill essential jobs in our economy and ensure full labor rights; and

Whereas, U.S. Representative Luis Gutierrez has joined with U.S. Senators Edward Kennedy of Massachusetts and John McCain of Arizona to offer a comprehensive U.S. immigration reform law known as The Secure America and Orderly Immigration Act; and

Whereas, the immigration initiative severely punishes illegal employment practices while creating a path to earned permanent legal status for individuals who have been working in the United States, paying taxes, obeying the law and learning English and protecting workers by ensuring the right to change jobs, join a union and report abusive employment situations; and

Whereas, modernizing our antiquated and dysfunctional immigration system will uphold our nation’s basic values of fairness, equal opportunity, and respect for the law: Now, therefore, be it

Resolved, that we, the President and the members of the Cook County Board of Commissioners do hereby support comprehensive immigration reform and memorialize the Illinois Congressional delegation to urge the passage of The Secure America and Orderly Immigration Act of 2005 (SB 1033 and HB 2330) that allows every hardworking, law-abiding individual to achieve the American Dream; and be it further

Resolved, that a suitable copy of this Resolution be delivered to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, and the Illinois Congressional Delegation.
**Chamber Action**

*Routine Proceedings, pages S9059–S9202*

**Measures Introduced:** Eighteen bills and four resolutions were introduced, as follows: S. 4, 1504–1520, S. Res. 215–217, and S. Con. Res. 48.

**Measures Reported:**

- S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, with an amendment in the nature of a substitute. (S. Rept. No. 109–110)

- S. 1418, to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States, with an amendment in the nature of a substitute. (S. Rept. No. 109–111)

**Measures Passed:**

- **Medical Device User Fee Stabilization Act:** Senate passed H.R. 3423, to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees, clearing the measure for the President.

- **Foundation for the National Institutes of Health Improvement Act:** Senate passed S. 302, to make improvements in the Foundation for the National Institutes of Health, after agreeing to the committee amendment in the nature of a substitute.

- **National Foundation for the Centers for Disease Control and Prevention:** Senate passed S. 655, to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, after agreeing to the committee amendment in the nature of a substitute.

- **Jornada Experimental Range Transfer Act:** Committee on Agriculture, Nutrition and Forestry was discharged from further consideration of S. 447, to authorize the conveyance of certain Federal land in the State of New Mexico, and the bill was then passed.

- **Women's Business Center Grants:** Senate passed S. 1517, to permit Women's Business Centers to recompete for sustainability grants.

- **Honoring World War II Veterans:** Senate agreed to S. Res. 216, expressing gratitude and appreciation to the men and women of the United States Armed Forces who served in World War II, commending the acts of heroism displayed by those servicemembers, and recognizing the “Greatest Generation Homecoming Weekend” to be held in Pittsburgh, Pennsylvania.

- **National Marina Day:** Senate agreed to S. Res. 217, designating August 13, 2005, as “National Marina Day”.

- **National Historically Black Colleges Week:** Committee on the Judiciary was discharged from further consideration of S. Res. 158, expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as “National Historically Black Colleges and Universities Week”, and the resolution was then agreed to.

- **National Airborne Day:** Committee on the Judiciary was discharged from further consideration of S. Res. 86, designating August 16, 2005, as “National Airborne Day” and the resolution was then agreed to, after agreeing to the following amendment proposed thereto:

  McConnell (for Hagel) Amendment No. 1628, to provide that the people of the United States observe “National Airborne Day” with appropriate programs, ceremonies and activities.

- **30th Anniversary of the Helsinki Act:** Committee on Foreign Relations was discharged from further consideration of S.J.Res. 19, calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act, and the joint resolution was then passed.

- **Commemorating Polish Workers Strike Anniversary:** Committee on the Judiciary was discharged
from further consideration of S. Res. 198, commemorating the 25th anniversary of the 1980 worker's strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe, and the resolution was then agreed to.

Page S9201

National Attention Deficit Disorder Awareness Day: Committee on the Judiciary was discharged from further consideration of S. Res. 201, designating September 14, 2005, as "National Attention Deficit Disorder Awareness Day", and the resolution was then agreed to.

Pages S9201–02

People-to-People Engagement in World Affairs: Committee on Foreign Relations was discharged from further consideration of S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities, and the resolution was then agreed to, after agreeing to the following amendment proposed thereto:

McConnell (for Feingold) Amendment No. 1629, to make certain corrections to the resolution.

Page S9202

Protection of Lawful Commerce in Arms Act: Senate began consideration of S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others, after agreeing to the motion to proceed to consideration of the bill, and taking action on the following amendments proposed thereto:

Frist (for Craig) Amendment No. 1605, to amend the exceptions.

Frist Amendment No. 1606 (to Amendment No. 1605), to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act.

Reed (for Kohl) Amendment No. 1626, to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun.

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, July 29, 2005.

Page S9087

A unanimous-consent agreement was reached providing that on Thursday, July 28, 2005, there be one hour equally divided for debate in relation to Kohl Amendment No. 1626 (listed above); that following the use or yielding back of time, Senate proceed to a vote in relation to the Kohl Amendment with no amendment in order prior to the vote.

Page S9114

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m. on Thursday, July 28, 2005; provided further, that Senators have until 1 p.m. to file first-degree amendments.

Page S9086

Defense Authorization—Agreement: A unanimous-consent agreement was reached providing that at any time determined by the Majority Leader, after consultation with the Democratic Leader, the Senate would resume consideration of S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces.

Pages S9085–86

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that during this adjournment of the Senate, the Majority Leader and Majority Whip be authorized to sign duly enrolled bills or joint resolutions.

Page S9202

Highway Extension Agreement: A unanimous-consent agreement was reached providing that notwithstanding the recess or adjournment of the Senate, that when the Senate receives from the House of Representatives a short-term highway extension, the bill be considered, read a third time and passed.

Page S9202

Nominations Received: Senate received the following Nominations:

Keith E. Gottfried, of California, to be General Counsel of the Department of Housing and Urban Development.  
Alfred Hoffman, of Florida, to be Ambassador to the Republic of Portugal.  
Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.  
Diane Rivers, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.  
Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.
Jan Cellucci, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

1 Army nomination in the rank of general.

Messages From the House: Pages S9155–56
Measures Referred: Page S9156
Measures Placed on Calendar: Page S9156
Executive Communications: Pages S9156–57
Additional Cosponsors: Pages S9158–60
Statements on Introduced Bills/Resolutions:
Pages S9160–88
Additional Statements:
Pages S9153–55
Amendments Submitted:
Pages S9188–95
Notices of Hearings/Meetings:
Page S9195
Authority for Committees to Meet:
Pages S9195–96
Privilege of the Floor:
Page S9196

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:40 p.m. until 9:30 a.m., on Thursday, July 28, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on pages S9086, S9202.)

Committee Meetings

(Committees not listed did not meet)

CONSERVATION RESERVE PROGRAM
Committee on Agriculture, Nutrition, and Forestry: Subcommittee on Forestry, Conservation, and Rural Revitalization concluded an oversight hearing to examine the Conservation Reserve Program, the voluntary program for agricultural landowners that provides annual rental payments and cost-share assistance to establish long-term, resource-conserving covers on eligible farmland, after receiving testimony from James R. Little, Administrator, Farm Service Agency, Department of Agriculture; Dan Forster, Georgia Department of Natural Resources, Social Circle; Sherman Reese, Echo, Oregon, on behalf of the National Association of Wheat Growers; Kendell W. Keith, National Grain and Feed Association, and Krysta Harden, National Association of Conservation Districts, both on behalf of sundry groups, both of Washington, D.C.; and Jeffrey W. Nelson, Ducks Unlimited, Inc., Bismarck, North Dakota, on behalf of sundry groups.

NATIONAL ALERT SYSTEM
Committee on Commerce, Science, and Transportation: Subcommittee on Disaster Prevention and Prediction concluded a hearing to examine the need for a national all-hazards alert and public warning system, focusing on the role and activities of the Federal Government to ensure the quick and accurate dissemination of alert and warning information, after receiving testimony from Reynold N. Hoover, Director, Office of National Security Coordination, Federal Emergency Management Agency, Department of Homeland Security; Kenneth Moran, Acting Director, Office of Homeland Security, Enforcement Bureau, Federal Communications Commission; Mark Paese, Director, Maintenance, Logistics and Acquisition Division, National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce; and Christopher E. Guttman-McCabe, CTIA—The Wireless Association, Richard Taylor, ComCARE Alliance, and John M. Lawson, Association of Public Television Stations, all of Washington, D.C.

FAIR RATINGS ACT
Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine S. 1372, to provide for the accuracy of television ratings services, focusing on Nielsen’s implementation of the local people meter (LMP) service, after receiving testimony from George Ivie, Media Rating Council, Inc., Susan Whiting, Nielsen Media Research, Ceril Shagrin, Univision, and Kathy Crawford, MindShare, all of New York, New York; Patrick J. Mullen, Tribune Broadcasting Company, Chicago, Illinois; and Gale Metzger, SMART Media, Cranford, New Jersey.

HYDROGEN AND FUEL CELL RESEARCH
Committee on Energy and Natural Resources: Subcommittee on Energy concluded a hearing to examine recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry, including challenges to the development of these technologies, after receiving testimony from Douglas L. Faulkner, Acting Assistant Secretary of Energy for Energy Efficiency and Renewable Energy; Jeremy Bentham, Royal Dutch Shell, Amsterdam, The Netherlands; Lawrence D. Burns, General Motors Corporation, Warren, Michigan; and Dennis Campbell, Ballard Power Systems, Burnaby, British Columbia.

MEDICARE
Committee on Finance: Committee held a hearing to examine the role of value-based purchasing relating to improving quality in Medicare, focusing on the use of pay-for-performance reimbursement systems within the Medicare program, receiving testimony from Herb Kuhn, Director, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services;
Mark E. Miller, Executive Director, Medicare Payment Advisory Commission; Thomas Byron Thames, AARP, and Nancy H. Nielsen, American Medical Association, both of Washington, D.C.; Leo P. Brideau, Columbia St. Mary’s, Milwaukie, Wisconsin, on behalf of the American Hospital Association; and James J. Mongan, Partners HealthCare, Boston, Massachusetts.

Hearing recessed subject to the call.

NOMINATIONS
Committee on Foreign Relations: Committee concluded a hearing to examine the Nominations of William J. Burns, of the District of Columbia, to be Ambassador to the Russian Federation, who was introduced by Senator Hagel; William Robert Timken, Jr., of Ohio, to be Ambassador to the Federal Republic of Germany, who was introduced by Senators Voinovich, DeWine, and Allen; Richard Henry Jones, of Nebraska, to be Ambassador to Israel; and Francis Joseph Ricciardone, Jr., of New Hampshire, to be Ambassador to the Arab Republic of Egypt, after the nominees testified and answered questions in their own behalf.

UNITED NATIONS PEACEKEEPING REFORM
Committee on Foreign Relations: Subcommittee on International Operations and Terrorism concluded a hearing to examine United Nations peacekeeping reform efforts, focusing on exploitation by United Nations peacekeepers of civilian populations, relating to the need for stronger oversight, investigative and disciplinary procedures, and training to prevent such abuse, after receiving testimony from Philo L. Dibble, Acting Assistant Secretary of State for International Organization Affairs.

Also, committee received a briefing on United Nations peacekeeping efforts from H.R.H. Prince Zeid Ra’ad Zeid Al-Hussein, Permanent Representative of the Hashemite, Kingdom of Jordan, and Jane Holl Lute, Assistant Secretary General, Peacekeeping Operations, both of the United Nations.

CHEMICAL FACILITIES SECURITY
Committee on Homeland Security and Governmental Affairs: Committee held a hearing to determine whether the Federal government is doing enough to secure chemical facilities, focusing on security operations relating to marine transportation, the fertilizer industry, and the industrial sector, receiving testimony from Rear Admiral Craig E. Bone, Director of Port Security, Maritime Safety, Security, and Environmental Protection Directorate, U.S. Coast Guard, Department of Homeland Security; Robert A. Full, Allegheny County Department of Emergency Services, Pittsburgh, Pennsylvania; Beth Turner, E.I. duPont de Nemours and Company, Inc., Wilmington, Delaware; Jim L. Schellhorn, Terra Industries, Inc., Washington, D.C., on behalf of The Fertilizer Institute; and John P. Chamberlain, Shell Oil Company, Houston, Texas, on behalf of the American Petroleum Institute.

SECURITIES AND EXCHANGE COMMISSION

INDIAN GAMING
Committee on Indian Affairs: Committee concluded an oversight to examine lands eligible for gaming pursuant to the Indian Gaming Regulatory Act, after receiving testimony from Senators Voinovich and Vitter; George T. Skibine, Acting Deputy Assistant Secretary of the Interior for Policy and Economic Development for Indian Affairs; Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission; Walter Gray, Guidiville Band of Pomo Indians, Talmage, California; Christine Norris, The Jena Band of Choctaw Indians, Jena, Louisiana; John R. Barnett, Cowlitz Indian Tribe, Longview, Washington; and Charles D. Enyart, Eastern Shawnee Tribe of Oklahoma, Seneca, Missouri.

FBI OVERSIGHT
Committee on the Judiciary: Committee concluded an oversight hearing to examine the Federal Bureau of Investigation, focusing on the creation of an intelligence service within the Federal Bureau of Investigation, specifically impacting the language program, information technology capabilities, and ability to recruit, hire, train, and retain expertise, after receiving testimony from former Representative Lee Hamilton, on behalf of the National Commission on Terrorist Attacks Upon the United States; Robert S. Mueller, III, Director, Federal Bureau of Investigation, and Glenn A. Fine, Inspector General, both of the Department of Justice; William H. Webster, Milbank, Tweed, Hadley, andMcCloy, LLP, former Director, Federal Bureau of Investigation, and John A. Russack, Information Sharing Environment, both of Washington, D.C.
INTELLIGENCE
Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

ELDERLY VICTIMIZATION
Special Committee on Aging: Committee concluded a hearing to examine the victimization of the elderly through scams, focusing on internet fraud, prize and sweepstakes fraud, health-related fraud, identity theft, and consumer education, after receiving testimony from Lois C. Greisman, Associate Director, Division of Planning and Information, Federal Trade Commission; Zane M. Hill, Acting Assistant Chief Inspector, U.S. Postal Inspection Service; Anthony R. Pratkanis, University of California at Santa Cruz; Denise C. Park, University of Illinois Beckman Institute, Urbana-Champaign; Helen Marks Dicks, Coalition of Wisconsin Aging Groups, Madison; and Vicki Hersen, Elders in Action, Portland, Oregon.

House of Representatives

Chamber Action
Public Bills and Resolutions Introduced: 45 public bills, H.R. 3449–3493; 2 private bills, H.R. 3494–3495; and 7 resolutions, H. Con. Res. 219–223; and H. Res. 391, 397 were introduced.

Additional Cosponsors:

Reports Filed: Reports were filed today as follows:
- Conference Report on H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy (H. Rept. 109–190);
- H.R. 1132, to provide for the establishment of a controlled substance monitoring program in each State, amended (H. Rept. 109–191);
- H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools, amended (H. Rept. 109–192);
- H. Con. Res. 208, recognizing the 50th anniversary of Rosa Louise Parks’ refusal to give up her seat on the bus and the subsequent desegregation of American society (H. Rept. 109–193);
- H. Res. 336, requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in “National Night Out”, which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security (H. Rept. 109–194);
- H. Con. Res. 216, expressing the sense of the Congress that, as Congress observes the 40th anniversary of the Voting Rights Act of 1965 and encourages all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans (H. Rept. 109–195);
- H. Res. 378, recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990 (H. Rept. 109–196, Pt. 1);
- H.R. 3205, amending title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, amended (H. Rept. 109–197);
- H. Res. 392, waiving points of order against the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006 (H. Rept. 109–198);
- H. Res. 393, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 109–199);
- H. Res. 394, waiving points of order against consideration of the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy (H. Rept. 109–200);
- H. Res. 395, providing for consideration of motions to suspend the rules (H. Rept. 109–201); and
- H. Res. 396, waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006 (H. Rept. 109–202).

Speaker: Read a letter from the Speaker wherein he appointed Representative Bonilla to act as speaker pro tempore for today.

Chaplain: The prayer was offered today by Rev. Lawrence Hargrave, Colgate Rochester Crozer Divinity School in Rochester, New York.
United States Trade Rights Enforcement Act: The House passed H.R. 3283, to enhance resources to enforce United States trade rights, by a yea and nay vote of 255 yeas to 168 nays, Roll No. 437.

Pages H6842–58

Rejected the Cardin motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment, by a yea and nay vote of 195 yeas to 232 nays, Roll No. 436.

Pages H6855–57

Pursuant to the rule, the amendment in the nature of a substitute printed in H. Rept. 109–187, was adopted.

H. Res. 387, the rule providing for consideration of the bill was agreed to by a recorded vote of 228 ayes to 200 noes, Roll No. 433, after agreeing to order the previous question by a yea and nay vote of 226 yeas to 202 nays, Roll No. 432.

Pages H6658–68, H6839–40

Suspensions: The House agreed to suspend the rules and pass the following measures:

State High Risk Pool Funding Extension Act of 2005: H.R. 3204, amended, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools;

Pages H6668–71

Controlled Substances Export Reform Act of 2005: S. 1395, to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied;—clearing the measure for the President;

Pages H6671–73

Patient Safety and Quality Improvement Act of 2005: S. 544, to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety, by a 2/3 yea and nay vote of 428 yeas to 3 nays, Roll No. 434;—clearing the measure for the President;

Pages H6673–79, H6840–41

Amending the Controlled Substances Act with regard to patient limitations on prescribing drug addiction treatments: S. 45, to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, by a 2/3 yea and nay vote of 429 yeas with none voting “nay”, Roll No. 435;—clearing the measure for the President;

Pages H6679–81, H6841

National All Schedules Prescription Electronic Reporting Act of 2005: H.R. 1132, amended, to provide for the establishment of a controlled substance monitoring program in each State;

Pages H6681–86

Encouraging the Transnational Assembly of Iraq to adopt a constitution that grants women equal rights: H. Res. 383, encouraging the Transnational National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights, by a 2/3 yea and nay vote of 426 yeas with none voting “nay”, Roll No. 438;

Pages H6686–91, H6858–59

Condemning the terrorist attacks in Sharm el-Sheikh, Egypt on July 23, 2005: H. Res. 384, condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005, by a 2/3 yea and nay vote of 428 yeas with none voting “nay”, Roll No. 439;

Pages H6837–39, H6859

Supporting the goals of National Marina Day: Debated on Monday, July 25: H. Res. 308, supporting the goals of National Marina Day and urging marinas continue providing environmentally friendly gateways to boating, by a 2/3 yea and nay vote of 385 yeas with none voting “nay”, Roll No. 444.

Page H6928

Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2005—Rule for Consideration: The House agreed to H. Res. 385, the rule providing for consideration of H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, by a recorded vote of 226 ayes to 200 noes with one voting “present”;

Roll No. 441, after agreeing to order the previous question by a yea and nay vote of 226 yeas to 202 nays with 1 voting “present”, Roll No. 440.

Pages H6860–69, H6882–83

Dominican Republic-Central American-United States Free Trade Agreement Implementation Act: The House passed H.R. 3045, to implement the Dominican Republic-Central America-United States Free Trade Agreement, by a recorded vote of 217 ayes to 215 noes, Roll No. 443.

Pages H6884–H6928

H. Res. 386, the rule providing for consideration of the bill was agreed to by a yea and nay vote of 227 yeas to 201 nays, Roll No. 442.

Pages H6869–78, H6883–84

Surface Transportation Extension Act: The House passed H.R. 3453, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway
Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Pages H6878–82

National Committee on Vital and Health Statistics—Reappointment: The Chair announces the Speaker's reappointment of Mr. Jeffrey S. Blair of Albuquerque, New Mexico to the National Committee on Vital and Health Statistics.

Page H6929

Senate Messages: Messages received from the Senate today appear on page H6884.

Senate Referrals: S. 264, S. 1480, S. 243, S. 1481, S. 1482, S. 203, S. 1484, S. 1485, S. 178, S. 207, S. 229, S. 231, S. 232, S. 253, S. 276, S. 54, S. 128, S. 152, S. 182, S. 205, S. 214, S. 301, S. 47, S. 52, S. 56, S. 97, S. 101, S. 153, S. 212, S. 252, and S. 279 were referred to the Committee on Resources; S. 706 was referred to the Committee on Transportation and Infrastructure; S. 1483 was referred to the Committee on Education and the Workforce; S. 176, S. 285, and S. 244 were referred to the Committee on Energy and Commerce; S. 442 was referred to the Committee on the Judiciary; S. 225 was referred to the Committees on Resources, Agriculture and Government Reform; S. 263 was referred to the Committees on Resources and Agriculture; S. 136 was referred to the Committees on Resources and Education and the Workforce; and S. 272, S. 55, S. 156, and S. 161, were held at the desk.

Pages H6657–58, H6929

Quorum Calls—Votes: 10 yea and nay votes and 3 recorded votes developed during the proceedings of today and appear on pages H6839, H6840, H6840–41, H6841, H6857, H6858, H6858–59, H6859, H6882–83, H6883, H6884, H6927–28 and H6928. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 12:15 a.m.

Committee Meetings

MISCELLANEOUS MEASURES

Committee on Agriculture: Ordered favorably reported the following bills: H.R. 3421, To reauthorize the United States Grain Standards Act, to facilitate the official inspection at export locations of grain required or authorized to be inspected under such Act; and H.R. 3408, To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

CHINESE MILITARY POWER

Committee on Armed Services: Held a hearing on Chinese military power. Testimony was heard from Franklin Kramer, former Assistant Secretary, International Security Affairs, Department of Defense; and public witnesses.

TERRORISM INSURANCE FUTURE

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing on the Future of Terrorism Insurance. Testimony was heard from Howard Mills, Superintendent, New York Insurance Department; Lawrence H. Mirel, Commissioner, Department of Insurance and Securities, District of Columbia; and public witnesses.

BRAC AND BEYOND

Committee on Government Reform: Held a hearing entitled “BRAC and Beyond: An Examination of the Rationale Behind Federal Security Standards for Leased Space.” Testimony was heard from Representative Moran of Virginia; Dwight M. Williams, Chief Security Officer, Department of Homeland Security; F. Joseph Moravec, Commissioner, Public Buildings Service, GSA; John Jester; and the following officials of the Department of Defense: John Jester, Director, Pentagon Force Protection Agency; and Get Moy, Director, Installation Requirements and Management.

HYDROGEN ECONOMY

Committee on Government Reform: Subcommittee on Energy and Resources held a hearing entitled “The Hydrogen Economy: Is it Attainable? When?” Testimony was heard from Douglas L. Faulkner, Acting Secretary, Energy Efficiency and Renewable Energy, Department of Energy; Richard M. Russell, Associate Director, Technology, Office of Science and Technology Policy; Alan Lloyd, Secretary, Environmental Protection Agency, State of California; and public witnesses.

IMPROVE HEALTHCARE USING INFORMATION TECHNOLOGY

Committee on Government Reform: Subcommittee on Federal Workforce and Agency Organization held a hearing entitled “Is There a Doctor in the Mouse?: Using Information Technology to Improve Healthcare.” Testimony was heard from Representative Kennedy of Rhode Island; Linda M. Springer, Director, OPM; the following officials of the Department of Health and Human Services: David Brailer, M.D., National Health Information Technology Coordinator; and Caroline Clancy, M.D., Director, Agency for Health Care Research and Quality; and public witnesses.
DHS IN TRANSITION
Committee on Government Reform: Subcommittee on Government Management, Finance, and Accountability held a hearing entitled “DHS in Transition—Are Financial Management Problems Hindering Mission Effectiveness?” Testimony was heard from the following officials of the Department of Homeland Security: Janet Hale, Under Secretary, Management; Andrew Maner, Chief Financial Officer; and Richard Skinner, Acting Inspector General; and Linda Combs, Controller, Office of Federal Financial Management, OMB.

REGULATORY REFORM
Committee on Government Reform: Subcommittee on Regulatory Affairs held a hearing entitled “Regulatory Reform: Are Regulations Hindering Our Competitiveness?” Testimony was heard from Representatives Hayworth, Kelly, Ney, Miller of Michigan, Lynch and Westmoreland; J. Christopher Mihm, Managing Director, Strategic Issues, GAO; Curtis W. Copeland, Specialist in American National Government, CRS, Library of Congress; and public witnesses.

BORDER SECURITY SYSTEM’S INTEGRITY—FEDERAL-STATE PARTNERSHIPS
Committee on Homeland Security: Subcommittee on Management, Integration, and Oversight held a hearing entitled “The 287(g) Program: Ensuring the Integrity of America’s Border Security System through Federal-State Partnerships.” Testimony was heard from Paul M. Kilcoyne, Deputy Assistant Director, Office of Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security; Mark F. Dubina, Special Agent Supervisor, Tampa Bay Regional Operations Center, Department of Law Enforcement, State of Florida; Charles E. Andrews, Chief, Administrative Division, Department of Public Safety, State of Alabama; and public witnesses.

UKRAINE
Committee on International Relations: Subcommittee on Europe and Emerging Threats held a hearing on Ukraine: Developments in the Aftermath of the Orange Revolution. Testimony was heard from Daniel Fried, Assistant Secretary, Bureau for European and Eurasian Affairs, Department of State; and public witnesses.

ENERGY SECURITY—TERRORIST THREATS
Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation held a hearing on Terrorist Threats to Energy Security. Testimony was heard from public witnesses.

SYRIA AND THE UN OIL-FOR-FOOD PROGRAM
Committee on International Relations: Subcommittee on Oversight and Investigation and the Subcommittee on the Middle East and Central Asia held a joint hearing on Syria and the United Nations Oil-for-Food Program. Testimony was heard from Elizabeth L. Dibble, Deputy Assistant Secretary, Bureau of Near Eastern Affairs, Department of State; Dwight Sparlin, Director, Operations, Policy, and Support, Criminal Investigation Division, IRS, Department of the Treasury; and a public witness.

U.S. DIPLOMACY IN LATIN AMERICA
Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on U.S. Diplomacy in Latin America. Testimony was heard from the following officials of the Department of State: Roger Noriega, Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; John Maisto, U.S. Representative on the Council of the OAS, Department of State; and public witnesses.

MISCELLANEOUS MEASURES
Committee on the Judiciary: Ordered favorably reported the following measures: H.R. 3132, Children’s Safety Act of 2005; H.R. 3402, Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009; H. Res. 356, Requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in “National Night Out,” which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security; H. Res. 378, Recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990; H. Con. Res. 216, Expressing the sense of the Congress that, as Congress observes the 40th anniversary of the Voting Rights Act of 1965 and encourages all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans; and H. Con. Res. 208, Recognizing the 50th anniversary of Rosa Louise Parks’ refusal to give up her seat on the bus and the subsequent desegregation of American society.

CONFERENCE REPORT—ENERGY POLICY ACT OF 2005
Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 6, Energy Policy Act of
2005, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Barton of Texas and Representative Dingell.

**CONFERENCE REPORT—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS**

*Committee on Rules:* Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Representatives Taylor of North Carolina and Dicks.

**CONFERENCE REPORT—LEGISLATIVE BRANCH APPROPRIATIONS**

*Committee on Rules:* Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2985, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Lewis of California.

**INTERNATIONAL MULTI-YEAR BUDGETING COMPARATIVE STUDY**

*Committee on Rules:* Subcommittee on Legislative and Budget Process held a hearing on A Comparative Study of International Multi-Year Budgeting. Testimony was heard from Barry Anderson, former Deputy Director, CBO; and public witnesses.

**PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES**

*Committee on Rules:* Granted, by voice vote, a rule providing that suspensions will be in order at any time on the legislative day of Thursday, July 28, 2005. The rule provides that the Speaker or his designee shall consult with the Minority Leader or her designee on any suspension considered under the rule.

**SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE**

*Committee on Rules:* Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of July 28, 2005, providing for consideration or disposition of a conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

**SBA'S VENTURE CAPITAL PROGRAM**

*Committee on Small Business:* Held a hearing on the importance of amending the Small Business Investment Act of 1958 to establish a participating debenture program to assist small businesses in gaining access to much needed capital. Testimony was heard from Jaime A. Guzman-Fournier, Associate Administrator, Investment, SBA; and a public witness.

**BIOTECHNOLOGY INDUSTRY IMPORTANCE**

*Committee on Small Business:* Subcommittee on Rural Enterprises, Agriculture and Technology, hearing entitled “The Importance of the Biotechnology Industry and Venture Capital Support in Innovation.” Testimony was heard from public witnesses.

**OVERSIGHT—POST TRAUMATIC STRESS DISORDER**

*Committee on Veterans' Affairs:* Held an oversight hearing on the Department of Defense and the Department of Veterans Affairs: The Continuum of Care for Post Traumatic Stress Disorder. Testimony was heard from the following officials of the Department of Defense: COL Charles W. Hoge, M.D., Chief of Psychiatry and Behavior Sciences, Division of Neurosciences, Walter Reed Army Institute of Research; LTC Charles C. Engle, Jr., M.D., Chief, DoD Deployment Health Clinical Center, Walter Reed Army Medical Center, both with the U.S. Army; and Michael E. Kilpatrick, M.D. Deputy Director, Deployment Health Support Directorate, Office of the Deputy Assistant Secretary; the following officials of the Department of Veterans Affairs: Matthew J. Friedman, M.D., Executive Director, National Center for Post-Traumatic Stress Disorder; Alfonso R. Batres, Chief, Office of Readjustment Counseling; BG Michael J. Kussman, M.D., Deputy Under Secretary, Health, Veterans Health Administration; and Mark Shelhorse, M.D., Deputy Chief Patient Care Services Officer for Mental Health and Chief Medical Officer for VISN 6; representatives of veterans organizations; and public witnesses.

**VETERANS MEASURES**

VETERANS LEGISLATION

Committee on Veterans’ Affairs: Subcommittee on Economic Opportunity held a hearing on the following: H.R. 3082, Veteran-Owned Small Business Promotion Act of 2005; H.R. 1773, Native American Veteran Home Loan Act; a measure to establish an Office of Disabled Veterans Sports and Special Events; a measure to require the Veterans’ Employment and Training Service to establish qualification standards for disabled veteran outreach specialists and local veteran employment representatives; a measure to increase the disabled veteran adaptive housing grant; and a measure to provide for a disabled veteran transitional housing grant. Testimony was heard from Delegate Faleomavaega; John M. McWilliam, Deputy Assistant Secretary, Operations and Management, Veterans’ Employment and Training Service, Department of Labor; Keith Pedigo, Director, Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs; and representatives of veterans organizations.

HEALTH CARE INFORMATION TECHNOLOGY

Committee on Ways and Means: Subcommittee on Health held a hearing on Health Care Information Technology (IT). Testimony was heard from David Brailer, M.D., National Coordinator, Health Information Technology, Department of Health and Human Services; and public witnesses.

GLOBAL MISSILE THREATS

Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Global Missile Threats. Testimony was heard from departmental witnesses.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D 807)

H.R. 3071, to permit the individuals currently serving as Executive Director, Deputy Executive Directors, and General Counsel of the Office of Compliance to serve one additional term. Signed on July 27, 2005. (Public Law 109–38)

COMMITTEE MEETINGS FOR THURSDAY, JULY 28, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings to examine the nominations of Lieutenant General Norton A. Schwartz, USAF, for appointment to the grade of general and to be Commander, U.S. Transportation Command, Ronald M. Sega, of Colorado, to be Under Secretary of the Air Force, Phillip Jackson Bell, of Georgia, to be Deputy Under Secretary for Logistics and Materiel Readiness, and John G. Grimes, of Virginia, to be Assistant Secretary for Networks and Information Integration, both of the Department of Defense, Keith E. Eastin, of Texas, to be Assistant Secretary of the Army for Installations and Environment, and William Anderson, of Connecticut, to be Assistant Secretary of the Air Force for Installations, Environment and Logistics, 9:30 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: business meeting to mark up the nominations of Christopher Cox, of California, Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission, and Annette L. Nazareth, of the District of Columbia, each to be a Member of the Securities and Exchange Commission, John C. Dugan, of Maryland, to be Comptroller of the Currency, and John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision, both of the Department of the Treasury, Martin J. Gruenberg, of Maryland, to be Member and Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, S. 705, to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, H.R. 804, to exclude from consideration as income certain payments under the national flood insurance program, S. 1047, to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation’s past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and S. 190, to address the regulation of secondary mortgage market enterprises, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: business meeting to consider S. 1408, to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft, 10 a.m., SR–253.

Full Committee, to hold hearings to examine issues related to MGM v. Grokster and the appropriate balance between copyright protection and communications technology innovation, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 584 and H.R. 432, bills to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, S. 958, to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, S. 1154, to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, S. 1166, to extend the authorization of the Kalaupapa National Historical Park Advisory Commission, and S. 1346, to direct the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan, 10 a.m., SD–366.
Committee on Indian Affairs: to hold oversight hearings to examine the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101–601), 9:30 a.m., SR–485.

Committee on the Judiciary: business meeting to consider S. 1088, to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, S. 103, to respond to the illegal production, distribution, and use of methamphetamine in the United States, proposed Personal Data Privacy and Security Act of 2005, S. 751, to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information, S. 1326, to require agencies and persons in possession of computerized data containing sensitive personal information, to disclose security breaches where such breach poses a significant risk of identity theft, S. 155, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, S. 1086, to improve the national program to register and monitor individuals who commit crimes against children or sex offenses, S. 956, to amend title 18, United States Code, to provide assured punishment for violent crimes against children, S. 1197, to reauthorize the Violence Against Women Act of 1994, and certain committee matters, 9:30 a.m., SD–226.

Committee on Veterans' Affairs: business meeting to consider the nominations of James Philip Terry, of Virginia, to be Chairman of the Board of Veterans' Appeals, and Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training, both of the Department of Veterans' Affairs, and S. 1182, to amend title 38, United States Code, to improve health care for veterans, S. 716, to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 1235, to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs, 9:30 a.m., SR–418.

House

Committee on Armed Services, Subcommittee on Terrorism, Unconventional Threats and Capabilities and the Subcommittee on Oversight and Investigations of the Committee on Financial Services, joint hearing on the financing of the Iraqi insurgency, 2 p.m., 2118 Rayburn.


Committee on Government Reform, hearing entitled ‘Keeping Metro on Track: The Federal Government’s Role in Balancing Investment with Accountability at Washington’s Transit Agency,’ 10 a.m., 2154 Rayburn.


Subcommittee on Prevention of Nuclear and Biological Attack, hearing entitled ‘Implementing the National Biodefense Strategy,’ 2 p.m., 1309 Longworth.

Committee on House Administration, hearing on Accessibility of the House Complex for Persons with Special Needs, 10 a.m., 1310 Longworth.

Committee on International Relations, hearing on Lebanon Reborn? Defining National Priorities and Prospects for Democratic Renewal in the Wake of March 14, 2005, 10:30 a.m., 2172 Rayburn.

Subcommittee on Africa, Global Human Rights and International Operations, hearing on China’s Influence in Africa, 2:30 p.m., 2172 Rayburn.


Committee on Resources, Subcommittee on Energy and Minerals, oversight hearing on Sustainable Development Opportunities in Mining Communities, Part II, 10 a.m., 1354 Longworth.

Subcommittee on Water and Power, oversight hearing on Implementation of the Westside Regional Drainage Plan as a Way to Improve San Joaquin River Water Quality, 2 p.m., 1324 Longworth.

Committee on Ways and Means, Subcommittee on Select Revenue Measures, hearing on Member Proposals for Tax Reform, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, Briefing on Global Updates, 9 a.m., H–405 Capitol.

Subcommittee on Oversight, hearing on DNI Status, 10 a.m., H–140 Capitol.

Joint Meetings

Joint Economic Committee: to hold hearings to examine alternative automotive technologies and energy efficiency, 10 a.m., 2226 RHOB.
Program for Thursday: To be announced.

Next Meeting of the Senate
9:30 a.m., Thursday, July 28

Program for Thursday: After the transaction of any morning business (not to extend beyond 60 minutes), Senate will continue consideration of S. 397, Protection of Lawful Commerce in Arms Act and vote on, or in relation to, Kohl Amendment No. 1626, after one hour for debate.

Next Meeting of the House of Representatives
10 a.m., Thursday, July 28

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