United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, WEDNESDAY, JULY 27, 2005 No. 104—Book II

House of Representatives

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 Egypt's appointed ambassador to Iraq, Dr. Ihab al-Sherif, was kidnapped and executed by terrorists in Baghdad during July 2005; and

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).

GENERAL LEAVE

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.

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

Mr. Speaker, I rise in strong support of this resolution. The recent deadly terrorist attacks in Egypt culminating in last week's assault on Sharm el-Sheikh have proven once again that the extreme ideology of violent Islamic fundamentalism poses a danger not only to the Western world, but to peace-loving people everywhere. The terrorists do not distinguish between Christians, Jews or Muslims in their search to destroy the core values of civilized society.

Mr. Speaker, at this difficult time we extend our deepest sympathies to the people of Egypt and to the loved ones of those many nations who perished in the bombing. Egypt has suffered several recent losses at the hands of violent fanatics. Earlier this month, Egypt's ambassador-designate in Iraq, Ambassador Ihab al-Sharif, was kidnapped and murdered. This courageous diplomat was to have been the first Arab ambassador accredited to the newly liberated Iraq, and his murder is a tragedy for all decent people.

In that spirit, let me express my profound concern over reports just this morning from Iraq that two recently kidnapped Algerian diplomats also may have been assassinated. I sincerely hope that these reports may not be true.

Mr. Speaker, we want the Egyptian people to know that they have our full support as they seek to hunt down those who planned and implemented the heinous attack at Sharm el-Sheikh, and as they seek to eradicate the scourge of fundamentalist violent Islam that has afflicted Egypt in several spasms over recent years, the same horrendous scourge that took the life of the late President Anwar Sadat, one of the towering figures of the 20th century.

I believe, Mr. Speaker, that the ultimate answer to this problem lies in

Printed on recycled paper.

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 distinguished 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. That a suicide attacker 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 Iraq, Dr. Ihab al-Sharif, was kidnapped and killed by a group associated with al Qaeda.

□ 1400

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 the operations of 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 very eloquent ranking member 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 are united in our struggle 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 popular tourist destination 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 a haven for the hope of 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 Presdient's 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 tragedy.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Res. 384. This legislation 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 acts and many others have been perpetrated 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 their chosen religion has anything to do with these terrorist attacks. Let me be clear, those who kill innocents and even themselves in the name of Islam are perverting their religion.

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 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 (Mr. FOLEY). 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:

ordering the previous question on House Resolution 387, by the yeas and nays;

adopting House Resolution 387, if ordered;

suspending the rules on S. 544, by the yeas and nays;

suspending the rules 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. 3283, 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:

[Roll No. 432]

YEAS—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, Jo Ann
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
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
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
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
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)
Sensenbrenner
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)

NAYS—202

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
Carson
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
Millender-McDonald
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
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

NOT VOTING—5

Brady (PA)
Issa
Johnson (IL)
Murphy
Platts

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1429

Mr. BONILLA changed his vote from "nay" to "yea."

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 unavoidably detained. Had I been present, I would have voted "yea."

Mr. ISSA. 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."

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.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

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 228, noes 200, not voting 5, as follows:

[Roll No. 433]

AYES—228

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, Jo Ann
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
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
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
Leach
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
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
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)
Sensenbrenner
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

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
Carson
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)
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
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
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
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

NOT VOTING—5

Brady (PA)
Issa
Jefferson
McKinney
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1438

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.

Stated for:

Mr. ISSA. Mr. Speaker, on rollcall No. 433, I was chair of a subcommittee and did not reach the vote in time. Had I been present, I would have voted "aye."

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 544.

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 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 3, not voting 2, as follows:

[Roll No. 434]

YEAS—428

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney

Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Foxx
Paul

NOT VOTING—2

Brady (PA)
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1448

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DRUG ADDICTION TREATMENT EXPANSION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 45.

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. 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, not voting 4, as follows:

[Roll No. 435]

YEAS—429

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

NOT VOTING—4

Blumenauer
Brady (PA)
Carter
Murphy

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1455

So (two thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2567

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2567.

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

There was no objection.

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 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 read.

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

H.R. 3283

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 ''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 are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because 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 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 the appropriate policy to respond 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 noncompliance;

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

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade 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 place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary 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;

(13) the fixed exchange rate that the People's Republic of China currently maintains is a substantial distortion to world markets, blocking the price mechanism and impeding adjustment of international imbalances, and it is also a source of large and increasing risk to the Chinese economy;

(14) the People's Republic of China has completed significant preparations over the last two years for adoption of a more flexible, market-oriented exchange rate;

(15) the People's Republic of China is now ready to move to a more flexible exchange rate and it should move to such an exchange rate as soon as possible;

(16) the Secretary of the Treasury, in the annual report reviewing developments in international economic policy, including exchange rate policy, under the Omnibus Trade and Competitiveness Act of 1988, appropriately concluded that ''current Chinese policies are highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth'';

(17) moreover, the rapid growth of credit and very high rate of investment risk undermine the progress that the People's Republic of China has made in reforming its banking system by creating new flows of non-performing loans;

(18) such behavior effectively prevents market forces from operating efficiently in the People's Republic of China, which distorts world trade;

(19) furthermore, based on the fact that the Secretary of the Treasury has determined the currency policy of the People's Republic of China to be ''distortionary'', the United States Trade Representative and the Secretary of the Treasury should place particular emphasis on determining whether China is violating its international obligations and identify to Congress the actions it is taking to address distortions to world trade;

(20) in addition, Japan's policy of intervening to influence the value of its currency and its prolific 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; and

(22) accordingly, the United States Trade Representative should have 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 benefits from the trade agreements to 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. 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 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 (i), (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 appropriate benchmarks. When applying such methodologies, the administering authority should adjust such prevailing terms and conditions before considering the use of terms 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 the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, 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 (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(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)(iii) 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 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 under subsection (a).

(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 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 to address remaining problems related to duty collections and, for each recommendation, provide an analysis of how the recommendation would address the specific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade laws).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY 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 undertake to ensure that the Government of the People's Republic 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 the end of 2005 to 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 law enforcement working group in cooperation with the United States whose members will cooperate on 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 not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed 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 extended the program to 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 and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the 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 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 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.

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

(3) The Chinese Government has submitted regulations on management of direct selling 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 households in China.

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

(c) ACCESS FOR EXPORTS OF UNITED STATES SERVICES.—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 undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(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.

(d) 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), 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) China's Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between 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 undertake 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 by the end of 2005.

(f) REPORTS.—

(1) BIANNUAL REPORT.—Not later than six months after the date of the enactment of this Act, and every six months 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) 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, the Secretary of the Treasury 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—

(1) defines currency manipulation;

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

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, section 40 of 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. 5304 and 5305) 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) IN GENERAL.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) $44,779,000 for fiscal year 2006.

''(ii) $47,018,000 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 141(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 enhanced 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) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.

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

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) $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 section 330(e)(2)(A) of the Tariff 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 on trade and 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 competitiveness of its industries, the composition and nature of its trade patterns, and the impact of these 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, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China's economic relationships with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall 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 tariffs and non-tariff measures, competition 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 licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

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

(v) An examination of whether or not increased United States imports from 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 MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) FINDINGS.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, 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 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: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, 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 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 entry into the GPA ''as soon as possible''.

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

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

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

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations 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 Chinese 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 regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, 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 policies that are fully at odds with 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 law 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 initiate technical consultations with other WTO member countries and accordingly delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.

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

(1) the Government of the United States should strive to expand membership in the Agreement on Government Procurement of the World Trade Organization (WTO);

(2) the Government of the United States should ensure that the Government of the People's Republic of China meets its WTO obligations as recently affirmed through its commitment in July 2005 through the U.S.-China Joint Committee on Commerce and Trade, to join the WTO Agreement on Government Procurement.

(3) the Government of the United States should seek a commitment from the Government of the People's Republic of China to maintain its suspension of the implementation of its law on government procurement, pending the conclusion of negotiations to accede to the Agreement on Government Procurement of the WTO;

(4) the Government of the United States should seek commitments from the Government of the People's Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People's Republic of China and other trading partners.

The SPEAKER pro tempore. The amendment printed in House Report 109–187 is adopted.

The text of H.R. 3283, as amended pursuant to House Resolution 387, is as follows:

SECTION 1. SHORT TITLE.

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 are injured by subsidized imports from nonmarket economy countries have not been able to obtain relief through countervailing duty actions because 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 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 the appropriate policy to respond 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 noncompliance;

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

(10) however, should efforts to resolve disputes through consultation fail, the United States Trade Representative should vigorously pursue United States rights through dispute settlement in every available forum;

(11) given the huge growth in trade 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 place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, nonmarket-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary 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;

(13) the fixed exchange rate that the People's Republic of China has maintained until recently has been a substantial distortion to world markets, blocking the price mechanism, impeding adjustment of international imbalances, and serving as a source of large and increasing risk to the Chinese economy;

(14) such behavior has effectively prevented market forces from operating efficiently in the People's Republic of China, distorting world trade;

(15) in a welcome move, the People's Republic of China has now begun to move to a more flexible exchange rate, and it should continue to so move to a market-based exchange rate as soon as possible;

(16) in light of this recent positive development, the Secretary of Treasury should provide to Congress a periodic assessment of 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 moves the currency closer to a market-based representation of its value;

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

(18) 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; and

(19) accordingly, the United States Trade Representative should have 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 benefits from the trade agreements to 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. 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 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 (i), (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 appropriate benchmarks. When applying such methodologies, where practicable, the administering authority should adjust such prevailing terms and conditions before considering the use of terms 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 the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, 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 (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(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)(iii) 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 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 under subsection (a).

(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 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 to address remaining problems related to duty collections and, for each recommendation, provide an analysis of how the recommendation would address the specific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade obligations).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY 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 undertake to ensure that the Government of the People's Republic 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 the end of 2005 to 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 law enforcement working group in cooperation with the United States whose members will cooperate on 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 not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed 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 extended the program to 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 and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the 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 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 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.

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

(3) The Chinese Government has submitted regulations on management of direct selling 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 households in China.

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

(c) ACCESS FOR EXPORTS OF UNITED STATES SERVICES.—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 undertake to ensure that the Government of the People's Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(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.

(d) 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), 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) China's Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between 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 undertake 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 by the end of 2005.

(f) REPORTS.—

(1) BIANNUAL REPORT.—Not later than six months after the date of the enactment of this Act, and every six months 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) 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. REPORTS ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

(a) REPORT ON CURRENCY MANIPULATION.—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; and

(3) describes how statutory provisions addressing currency manipulation by trading partners of the United States contained in, and relating to, section 40 of 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. 5304 and 5305) can be better clarified administratively to provide for improved and more predictable 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 moves the currency closer to 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).

(c) DEFINITION.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Ways and Means and the Committee on Financial Services of the House of Representatives; and

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

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

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) $44,779,000 for fiscal year 2006.

''(ii) $47,018,000 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 141(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 enhanced 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) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the enforcement of United States rights and of obligations of United States trading partners under trade agreements has gained such significance that the United States Trade Representative should determine which of its current positions is most responsible for carrying out these important enforcement duties and should assign that position, in addition to any other title, the title of Chief Enforcement Officer.

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

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) $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 section 330(e)(2)(A) of the Tariff 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 on trade and economic relations between the United States and the People's Republic of China which addresses China's economic policies, including its exchange rate policy, the competitiveness of its industries, the composition and nature of its trade patterns, and other elements impacting 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, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China's economic relationships with third countries and China's changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China's foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall 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 tariffs and non-tariff measures, competition 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, services, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services based on trade and investment flows.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

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

(v) An examination of whether or not increased United States imports from 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 MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) FINDINGS.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, 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 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: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, 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 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 entry into the GPA ''as soon as possible''.

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

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

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

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations 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 Chinese 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 regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, 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 policies that are fully at odds with 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 law 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 initiate technical consultations with other WTO member countries and accordingly delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.

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

(1) the Government of the United States should strive to expand membership in the Agreement on Government Procurement of the World Trade Organization (WTO);

(2) the Government of the United States should ensure that the Government of the People's Republic of China meets its WTO obligations as recently affirmed through its commitment in July 2005 through the U.S.-China Joint Committee on Commerce and Trade, to join the WTO Agreement on Government Procurement.

(3) the Government of the United States should seek a commitment from the Government of the People's Republic of China to maintain its suspension of the implementation of its law on government procurement, pending the conclusion of negotiations to accede to the Agreement on Government Procurement of the WTO;

(4) the Government of the United States should seek commitments from the Government of the People's Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People's Republic of China and other trading partners.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from Maryland (Mr. CARDIN) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today the House has yet another opportunity to vote on a very important bill, which, in my view, takes the largest step towards strengthening our trade remedy laws in over 15 years.

□ 1500

Madam Speaker, this bill is a comprehensive approach toward eliminating many of the inequities that exist in our existing trade relationships, and particularly the U.S.-China bilateral trade relationship. This legislation would hold China accountable and create tough mechanisms to ensure compliance, providing tools for us to use to gain compliance, should China fail to do so, on its fundamental trade obligations.

Voting for this bill today, Madam Speaker, will send a strong signal to Beijing that Congress will not sit idly by while China's mercantilist trade policy injures U.S. employers and destroys jobs, particularly in our vital manufacturing sector. Voting for this bill today, Madam Speaker, will send a strong signal to China and to every country that this Congress will do what it takes to ensure that our trading partners fully abide by the rules and are not rewarded with unfettered access to our market when they are not prepared to make the tough choices that they are obligated to, to follow the rules.

Let me make it very clear, given the experience with this bill with the minority as this bill was brought up yesterday, it has to be clear, Madam

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 parts of the economy 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 a major tool 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 refined 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, would effectively close a loophole that particularly the Chinese have been using to avoid antidumping penalties in certain cases.

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, if 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 are prepared to work with 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.

Madam 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 and not what people who may be 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 duties the import and export subsidies by the country involved. Now, that is a different standard than we have for market economies, where you only 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 provision.

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 duty 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 you 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 violation for us to file a countervailing duty claim. That is section 3.

Let us go 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.

Going 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 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 to us and fail to take 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 under the WTO. No action 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 on this bill to please speak 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 there 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 living up to its international 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 that bill and do what is right for 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 1½ 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, honestly, 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 on currency manipulation, which, I would submit, is the principal problem with the application of the current law as it applies to currency manipulation.

□ 1515

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

And, finally, may I point out, the gentleman claims that people in affected industries are opposing this legislation. Actually, this has been endorsed by the National Association of Manufacturers, the American Forest and Paper Association, the Forging Industry Association, the North American Die Casting Association, the Industrial Fasteners Institute, and the Vanadium Producers and Reclaimers Association.

The final point I would make is that when it comes to government procurement, we lifted Mr. RANGEL's provisions. So I am not sure where their criticism is coming from.

Madam Speaker, I yield 2½ 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, was it not? 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 conveys a sense of Congress to the People's Republic of China, that it carries little consequence.

Well, I would invite every Member of this House, 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 Unocal.

It 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 Bureau in Beijing; and I stand in this well again supporting this legislation today because the facts have not changed from yesterday.

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 trade 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 perfect the enemy of the good, or do they stand with us, as they did in this well 2 weeks ago, not only conveying the sense of Congress, but putting teeth behind our policy to tell the Chinese enough is enough?

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 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 I point out again that the double-counting provision will make the application of countervailing duties much more difficult, if not impossible, in a nonmarket economy; and that is not helpful to companies that have been hurt by subsidized products coming from China.

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

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 occurred because 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 elsewhere. And what do the Republicans do?

They blame the patients and the courts for higher health care costs. 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 competitiveness? No. Does 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.

And does this bill do anything to combat health care costs that are spiraling out of control and force companies to reconsider whether they want to incorporate here or in Canada? The answer is no. Does this bill do anything to improve the security of America's working people? 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 is because 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 more competitive in the world, and it does not make us deal with our deficit.

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 like there was no end to their credit card. Stop it. Do not bash the Chinese.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Madam Speaker, I thank the gentleman for yielding me this time.

Clearly, I am in support of the U.S. Trade Rights Enforcement Act; and as yesterday, I stood somewhat flummoxed at the lack of support on the other side of the aisle where they claim to care about workers in the United States, but will not support this legislation.

I stand here again to explain how this certainly is the best way available to us today to help workers in the United States. I visit many plants in the communities I represent in western Pennsylvania; and when people talk to me about their top issue, there are several, but one that always recurs, no matter the size of the manufacturer, are concerns about China.

Their concerns deal with market access, they deal with piracy of products, they deal with dumping of products in the American market, and they deal with Chinese currency manipulation. Our U.S. Government has put a significant amount of pressure on China, but not enough.

This bill gives our government the tools to put that real pressure on China and to actually deal with them. It gives them teeth. Currently, U.S. companies can only file antidumping trade cases against companies in market economies. We need to deal with nonmarket economies like China. This bill helps us to do that. The other issue of piracy is one that we have struggled 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 helps us to monitor the results of what they have done and to push them to do even more to make sure that their currency floats. 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 in China 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 countervailing duties, I have already commented on that.

Madam Speaker, I yield 4½ 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.

You 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 in this bill. You have read it carefully. And you have not been able to find the tool.

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, years. When I was last in China, I walked out of the hotel for the first time and immediately someone said, I have got a DVD, it is brand new, for $1. And I said, I do not want it. And the gentleman was kind of insulted that I did not want to buy a DVD that was brand new for just a buck.

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.

□ 1530

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 provisions. The hyperbole 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 you refused to 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 would also like to point out there 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 U.S. 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 rules.

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 CAFTA battle as from the strength of its content.''

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

Madam Speaker, I yield 4 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

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 say, ''or taken 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 collect such evidence of 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 through 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 got 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 problems that we are having 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. Listen to what 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 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. This is a bill about saying things about 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 is being 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 fighter 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. MANZULLO) 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. Chinese 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.

H.R. 3283 will take 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 important 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 on the currency issue, section 6 in this legislation deals with currency manipulation. It does not deal with China specifically. And it requires the Secretary of the Treasury to define currency manipulation and describe actions of foreign countries that will be considered to be currency manipulation.

The problem is Treasury 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. RANGEL), 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 to suggest that there are minor adjustments 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.

□ 1545

American jobs are at stake. We can compete if it is on a fair, level playing field. It is not. This bill does not deal with the China currency issue.

Madam Speaker, I reserve the balance of my time.

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 sending products into our 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 do something meaningful on the currency issue by requiring the Treasury to revisit how they define currency. I will concede in the bill that was belatedly filed by 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 wiggle 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 Georgia 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 a 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 or any other nation 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 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 yield such time as he may consume to the gentleman 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 thank the gentleman from Pennsylvania for yielding me this time.

The legislation drafted by the gentleman specifies that the Commerce Department shall ensure that the application of countervailing duty law to nonmarket economies is consistent with international obligations to the United States. Some Members have expressed concern that this legislation would give the WTO special influence over U.S. law. Is that true?

Mr. ENGLISH of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BISHOP of Utah. 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 in and of 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 agreement or a decision 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 U.S. 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. 3283 says that ''the Commerce shall ensure that the application of CVD law is consistent with the international obligations of the United States,'' am I correct 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. So, does H.R. 3283 require Commerce to take additional steps to ensure consistency?

Mr. ENGLISH of Pennsylvania. No. Agencies are presumed to act in good faith when implementing a statute in accordance with international obligations. There is no additional requirement.

Mr. BISHOP of Utah. Madam Speaker, I thank 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 other side.

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 expiring. 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 be more aggressive in making 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 same concerns as to whether we were turning over to dispute settlement panels a decision as to whether we would bring future cases using counterveiling 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 substitute, because I do think that there is general sentiment among the overwhelming majority of the Members of this body to take action against China for its failure to comply with international trading rules. China has violated currency manipulation, which has worked to the disadvantage of American manufacturers, farmers, and producers. China has not enforced intellectual property issues, which has worked to the disadvantage of our entertainment industry, and to our engineering and manufacturing industries.

China has flooded the markets, contrary to its trade agreements on textiles, which has worked to the disadvantage of the U.S. markets. China over and over again has denied access on services and many other areas that require action. So it is appropriate that we should be considering legislation to address the shortcomings of China's compliance with international trade rules.

Now, I think we could have come up with a much stronger bill. The gentleman from New York (Mr. RANGEL), as I pointed out earlier, introduced H.R. 3306. And when you compare H.R. 3306 with the bill that is before us, you cannot help but feel that we should have done a much better job.

H.R. 3306 would have applied U.S. countervailing duty laws to China and other nonmarket economies without the additional burdens imposed by the underlying bill. The gentleman from Pennsylvania (Mr. ENGLISH) quoted from some sources that support that provision. Let me just tell you that Nucor, which is, as you know, a steel company that has to live with subsidized steel from China coming into the U.S. market, opposes the provision. Nucor believes that the extra burden of trying to establish the amount of subsidy when you have to factor additionally for nonmarket economies domestic subsidies, it is a burden that will make the new countervailing duty application meaningless as it relates to China. That is a specific company telling us, who supported the original English bill, they oppose this provision because of the problems.

I could cite other examples, Madam Speaker, but on one hand the bill gives some relief for countervailing duties to nonmarket economies; but on the other, the bill imposes new restrictions that really make it very difficult if it provides any help at all.

The Rangel bill would require the administration to initiate WTO action to address China's currency manipulation. Instead, the underlying bill provides for another study generally by Treasury which will delay action taken against China by another period of time. H.R. 3306, the Rangel bill, would strengthen special China safeguard laws. The underlying bill does nothing on that at all.

So, Madam Speaker, we have a bill that contains the sense of Congress and provisions that I think most of the Members of this body would agree with. It contains some other provisions 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 enforcing our trade rules with China, it does not do that.

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 two 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, if you believe that 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 that.

Mr. ENGLISH of Pennsylvania. Mr. 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.

□ 1600

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 strong, 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 do increase funding, 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 going 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 antidumping cases in which some 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 not action items. As is clear from a plain reading of the provisions of this bill, these are all action items, and they 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 inform, and it is 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 these problems.

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 Red 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 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 nonmarket 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 then 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 misery for working people in the U.S. 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. I am at this time

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 amendment:

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)(i) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which involves currency manipulation, or denies national or most-favored nation treatment or the right of establishment or protection of intellectual property rights.

''(ii) In this subparagraph, the term 'currency manipulation' means the protracted large-scale intervention 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.''.

(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 sections 302 and 303 of the Trade Act of 1974, of the currency practices of the People's Republic of China;

(B) make the applicable determinations under section 304 of that Act pursuant to that investigation; and

(C) implement any action, under section 305 of that Act, in accordance with such determinations.

(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 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(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 RATE 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 protracted large-scale intervention 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 uses 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). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

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 twinkling of an eye.''

Now I know that the administration and many of those on the opposite side of the aisle will point to the fact that China reevaluated 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 the bill immediately 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 justify tying a currency to another currency. That is 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 and Democratic colleagues 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.

If 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. The gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH of Pennsylvania. 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 a section 301 case against China based on its old currency peg to the dollar. It would also force the administration to use a very narrow and simplistic definition of currency manipulation in its foreign exchange reports.

My understanding is the USTR rightly rejected this petition twice in the 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.

I would argue that my bill requires that the USTR instead report to Congress every 6 months on the degree to

which the new mechanism moves the currency closer to a market-based representation of its value and requires Treasury to reconsider how it currently defines currency manipulation.

The gentleman from Maryland (Mr. CARDIN) might argue that in a sense all that this does is force the United States to bring a WTO case against China on grounds that China is manipulating its currency. However, the motion itself does not appear designed to force the United States to bring a WTO case. In fact, the motion's definition of currency manipulation clearly bears no relationship to the WTO rules.

Instead, this proposal from the other side of the aisle would force the United States to take unilateral action under section 301, which would potentially place us in violation of WTO rules. Section 301 mandates specific actions, including possibly trade retaliation if a foreign act or measure: one, violates or is inconsistent with a trade agreement such as the WTO agreements; or, two, is unjustifiable and burdens or restricts U.S. commerce.

These are separate grounds for taking mandatory action under section 301. The recommittal defines currency manipulation using a fabricated definition as ''unjustifiable.'' Thus, it appears that this initiative is really intended to force the United States to take action under the second prong of section 301, not the prong intended to be used where there are potential WTO violations.

□ 1615

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 colleague 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 Speaker pro tempore announced that the noes appeared to have it.

Mr. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on the passage of H.R. 3283, if ordered; suspending the rules on House Resolution 383; and suspending the rules on House Resolution 384.

The vote was taken by electronic device, and there were—yeas 195, nays 232, not voting 6, as follows:

[Roll No. 436]

YEAS—195

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
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
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
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
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
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
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

NAYS—232

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
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
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
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
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
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
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)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
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)

NOT VOTING—6

Brady (PA)
Cox
Cummings
Jenkins
Murphy
Murtha

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised that there are 2 minutes left in this vote.

□ 1638

Messrs. LARSEN of Washington, FORBES, OTTER, SHAYS, FLAKE, HALL, MORAN of Virginia, and Mrs. WILSON of New Mexico changed their vote from ''yea'' to ''nay.''

Ms. HARMAN, Ms. McKINNEY, and Messrs. WEXLER, COSTELLO, KANJORSKI, and GORDON changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

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 ayes 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:

[Roll No. 437]

YEAS—255

Ackerman
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Price (NC)
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)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—168

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boyd
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kirk
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Rahall
Rangel
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
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—10

Brady (PA)
Clay
Cox
Cummings
Diaz-Balart, L.
Hastings (FL)
Jenkins
Murphy
Murtha
Reyes

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes left in this vote.

□ 1646

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ENCOURAGING TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ TO ADOPT A CONSTITUTION GRANTING WOMEN EQUAL RIGHTS

The SPEAKER pro tempore (Mr. TERRY). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 383.

The Clerk read the title of the resolution.

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. 383, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 426, nays 0, not voting 7, as follows:

[Roll No. 438]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre

McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Brady (PA)
Cox
Cummings
Jenkins
Murphy
Murtha
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1655

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.

Stated for:

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.

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

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

The Clerk read the title of the resolution.

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, 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:

[Roll No. 439]

YEAS—428

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

NOT VOTING—5

Brady (PA)
Cummings
Jefferson
Murphy
Murtha

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1705

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.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, on the vote on H.R. 3283, I was in the Intelligence Committee when the vote was cast. Had I been present, I would have voted ''no.''

PROVIDING FOR CONSIDERATION OF H.R. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon the adoption of this resolution it shall be in order without intervention 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 excessive 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 recommit.

SEC. 2. During consideration of H.R. 5 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.

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

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

Mr. Speaker, 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 designees. It waives all points of order against consideration of the bill, provides that notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker, and it provides one motion to recommit.

Mr. Speaker, I rise today as the proud sponsor of H.R. 5, the Help Efficient, Accessible, Low Cost, Timely Health Care 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. SENSENBRENNER), the chairman of the Judiciary Committee, and the gentleman from Texas (Mr. BARTON), the chairman of the Energy and Commerce Committee, 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 previous two Congresses.

As the sponsor of H.R. 5, I am very excited about the opportunity that we have today to strengthen our health care system for the sake of every household's health and every household's pocketbook.

Mr. Speaker, H.R. 5 is without question 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 fundamental reforms to strengthen access to health care and to control the burgeoning cost of health care.

Having practiced for almost 30 years as an OB/GYN physician, I have not forgotten the experiences and the lessons that I learned on the front lines of medicine. I came to this Congress not only with a background in health care, but also with an important charge to do all that I could to make our health care system better.

And, Mr. Speaker, I can tell you in no uncertain terms, we have a problem. We are losing too many good doctors because of the skyrocketing costs of medical liability insurance and the threat of frivolous lawsuits.

These costs have been driven up by frivolous lawsuits and runaway awards that are more about someone's ship coming in, and I do not mean the injured plaintiffs, than the provision of justice for those who are injured.

In fact, the Department of Health and Human Services reports: ''The litigation system is threatening health care quality for all Americans as well as raising the cost of health care for all Americans.''

While I am no economist, it does not take a financial expert to know that with fewer and fewer practicing doctors and an ever-growing number of patients, the price of health care will inevitably go up and skyrocket out of the reach of the average consumer.

These increasing costs not only create a significant burden on the American people, but also increasingly aggravate the current strain on the Federal budget resulting in bigger and bigger deficits.

Therefore, Mr. Speaker, I, along with the gentleman from Texas (Mr. SMITH), introduced H.R. 5 as a simple, straightforward solution to reform and strengthen our civil justice system as it pertains to medical liability.

Mr. Speaker, I am thankful for the other 55 Members who have joined with us to cosponsor this bill. Mr. Speaker, the HEALTH Act will not, let me repeat, it will not limit economic awards such as medical bills and lost wages.

So if, as an example, a plaintiff has $10 million in economic damages, they can still collect $10 million for their economic damages. Again, there is no limit to the economic awards. H.R. 5 would, however, limit noneconomic awards to $250,000.

Additionally, punitive damages, if assessed, would be limited to $250,000 or twice the amount of economic loss suffered, whichever of the two is greater.

And, again, Mr. Speaker, as an example, if the economic damages were $5 million, and there were cause to impose punitive damages because of someone's deliberate action, deliberately harmed a patient, then the punitive damages could be $10 million in addition to the $5 million in economic, while the noneconomic would still be limited to $250,000.

The HEALTH Act will also make liability more equitable. If one or more parties is a defendant and ordered to pay damages, then each party pays damages proportional to their fault in the case as determined by the trier of fact, the jury.

Mr. Speaker, no one should have to take the blame and pay damages for the negligence of another defendant, as under current law. That is not justice and this bill will make sure that this inequity is eliminated.

Now, I realize that there are some who have tried to cloud the issue here, and they will certainly oppose this bill. And while I am not questioning anybody's motives, I have to insist that each and everyone of us ask ourselves, Where do my loyalties lie? Do they lie with the American people and their best interests, or do they lie with those special interest trial lawyers?

Some, some, seek to game our judicial system for big bucks, of which their clients, the actual victims, see very little.

□ 1715

For this reason, H.R. 5 includes a provision that will limit the contingency fees of lawyers and health care lawsuits on a sliding-scale basis. This provision will ensure that victims actually receive fair compensation for their damages and they are not bilked and taken advantage by certain greedy trial lawyers.

I cannot stress enough the importance of this bill, Mr. Speaker. Too many of our States are now in a condition of medical liability crisis. My home State of Georgia is one of those States in crisis. And while our legislature, along with Governor Sonny Perdue, has passed meaningful medical liability reform in this past session, there is still much work to be done to undo the damage inflicted on Georgia's health care system. Specifically, according to the Alliance of Specialty Medicine, over the past 3 years, 15 of Georgia's 20 active insurance companies have stopped issuing medical malpractice policies for doctors. This fact flies in the face of the argument from the other side that suggests that greedy insurers are just overcharging doctors for their insurance coverage.

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 we just passed 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 the 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 for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. MORAN).

(Mr. MORAN of Virginia asked and was given permission to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, I rise 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 this 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 too low since some valid cases with catastrophic or lifetime injuries 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 doctors were involved in 54 percent of all medical malpractice payouts, including jury awards and settlements. More startling, the data shows that 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 whistleblower 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 provide 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 now 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. GINGREY), my friend, for yielding me the time. I should say Doctor Gingrey and that I want him to call me Attorney Hastings so we get it clear as to who we are around here.

Mr. Speaker, I rise today in strong opposition to this closed rule. Like a broken record, my friends on the other side on 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 incredulous 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. CONYERS) 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 ½ of 1 percent of those tested had incurred some type of cardiovascular event. A further investigation showed that Merck had actually doctored the study when, in fact, 14.6 percent of Vioxx patients were negatively affected by the medication.

Under the Republican medical malpractice bill, those who have died or been injured when taking Vioxx will have no legal ground on which to seek compensation for Merck's outright negligence. Many at home may be asking themselves, How could Congress knowingly protect a manufacturer from being sued if it continues producing a product that it knows is faulty and can cause real harm or even death to someone? What about corporate responsibility? What about protecting the lives of innocent Americans?

To them I say, if the underlying legislation becomes law, what I just described will become the norm. The majority have made it crystal clear that they do not believe irresponsible companies and manufacturers should be held responsible for their actions no matter the harm they inflict. As my colleague and good friend on the Committee on Rules, the gentleman from Massachusetts (Mr. MCGOVERN) said last night, welcome to the Committee on Rules, where democracy goes to die.

Mr. Speaker, President Bush and the Republican Party have unfairly singled out trial lawyers as the root cause of skyrocketing medical malpractice insurance rates across the Nation. They suggest that the prevalence of ''pain and suffering'' awards in malpractice suits have forced insurance companies to raise their liability insurance rates and force doctors out of business. This suggestion is both superficial and wrong.

H.R. 5 does nothing to help doctors with high malpractice insurance premiums. Study after study have confirmed that while the insurance company is raising premiums for doctors at a record pace, the amount they pay out for lawsuits has remained stable. The insurance industry is price-gouging physicians and lying to the public all to justify limiting the rights of victims so that the industry can add to its already record-setting bottom line.

This bill is a distraction from the real problems that exist in America's failing health care system. Physicians and lawyers are pointing fingers at each other while insurance companies are quietly and quickly running to the bank.

Solutions to our Nation's health care woes do exist, Mr. Speaker, but they go beyond blaming one group of Americans and involve more than one easy-to-fix resolution. I urge my colleagues to oppose this closed rule and reject the underlying bill.

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 rather conservative 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 the Help Efficient, Accessible, Low-Cost, Timely Healthcare Act of 2005, commonly referred to as the HEALTH Act.

If it seems like you have seen me speaking on this before, that is because I have. The House of Representatives has done their part and passed this much-needed legislation several times during my 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 prohibitively 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 about 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 way.

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 gentleman 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 irresponsible 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 hearts attacks. Mr. Speaker, how can we reward a company that has knowingly created, marketed and distributed a drug which has caused 55,000 deaths?

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 chance of hearts attacks and cardiovascular problems. In 1999 and 2000, two clinical trials showed that people taking Vioxx had a fivefold increase in hearts attacks.

□ 1730

It was not until 2002, after multiple requests from the FDA, that Merck reluctantly change 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 more studies and testimonies 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 unsafe, 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 actually 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, that 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 ordered extra tests to keep 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, eschemic heart disease; and the study showed after the medical malpractice reforms went in place in California, the charges to the Medicare plan declined significantly. 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 1995 Congress immunized community health care centers from 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 save an estimated $40 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, implement a few other direct, financial 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 debatable but reasonable enough basis for estimation—and you find that tort reform would save the country as a whole well over $50 billion a year.

But how much more negligent medicine would that encourage? How many more cardiac patients would die? How many more would get inferior treatment 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 in many states.

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

The authors analyze data on all elderly Medicare beneficiaries hospitalized for serious heart disease in 1984, 1987 and 1990. The study correlates spending for medical care with state tort laws. About three patients in five were treated in states that placed 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 in 1990—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 had no significant impact on the ostensible victim. Studies like this didn't reveal much about the consequences of malpractice litigation because they didn't pin down the consequences of malpractice itself.

With elderly cardiac patients there are objective standards for assessing ineffective care: Patients die, or they end up back in a 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. Lawyer-shy doctors administer tests willy-nilly, 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. But when Medicare and Medicaid patients sneeze, it's the federal Treasury that catches cold. No principle of federalism requires federal taxpayers in Montana to pay for 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 minutes and 20 seconds 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 no 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, a 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 phen-fen. 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 case and 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 legislation, you want 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 want to stand 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 rule and the bill. This debate, this issue is about patients and the principal challenge that we have. What is the principal challenge that we have? I believe it is that it is imperative that we provide a system which allows patients to have access to the highest level of health care, and we are losing this across this Nation for a variety of reasons, but not the least of which is the lottery mentality of our court system.

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 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 doctor.

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.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I continue to be amazed as I listen to this debate. I can tell you this, I know the difference between butter beans and turnip greens, and I am wondering if these folks from Georgia have figured that out. They said they passed tort reform, and still the insurance companies cannot make any money. They might need to retrain their docs.

I do not know what is going on in Georgia, but I can tell you this, you guys pass this bill and you are going to live under it too. It is going to be the law of the land, and you are going to have to live under it. When your people get hurt, when your family gets damaged, when somebody that does not know what they are doing hurts your family, when a drug company sells you a bad product and kills somebody in your family, you are going to live under this bill, too. Think about it. Is that what you really want to do?

Are you so in bed with the drug companies and the insurance companies that you just cannot pass up, as my colleague from Illinois just talked about, you just cannot pass up another opportunity to give them money? It is absolutely amazing.

The pharmaceutical industry in this country has proven beyond a shadow of a doubt that they do not care about people or anything else. All they care about is money. Give us more money. And this Republican Congress and this Republican President have given them money in the most unashamed possible way that I can imagine.

If you all really believe this is going to solve the health care cost problems in the United States, I have some ocean front property in Arkansas I would love to talk to you about.

This is the most incredible thing I have ever seen. How you have the audacity to come before this body and even make the claim that that is going to happen is beyond me, and then criticize me and my side of the aisle because we are protecting trial lawyers? My goodness alive, that is just absolutely amazing.

The bottom line here is this: just like the gentleman from Massachusetts said, the Committee on Rules is where democracy goes to die in the U.S. House. You will not even let us have an up-or-down vote. Let us have a vote. If you want to protect the drug companies, let it stand alone. Let us let you be on the voting block. Let your name be public and say, I protected the drug companies, I protected the insurance companies, I want to do all I can to help those people. Be accountable.

You are so proud of this, boy, I would get up here and I would really talk about it a lot. And when you go home, you are going to meet that person that you kept from having their day in court and that you ruined their life and there was nothing they could do about it because of this law. They are going

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 here 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.

□ 1745

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 huge 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 overreaching 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 companies' 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 insurance costs 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, the proportion of America's 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; 3.9 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 because of a physician or 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 access 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 raise premiums 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 began to finally come 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; the substitute amendment of the gentleman from Michigan (Mr. CONYERS) 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 failure to diagnose a 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 an 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 noneconomic 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.

□ 1800

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 mastectomies, 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 for 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, I ask them? The 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. It 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. But they say they are going 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 and insurance 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 ruled 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 say, Mr. Speaker, maybe we ought to call 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 1½ 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 placing caps on noneconomic damages, let me just list a few other organizations that are in favor of that as well: The American Academy of Family Physicians, the American Academy of Pediatricians, the American Association of Home and Services For the Aging, the American College of Emergency Physicians, the American College of Nurse Midwives, the American College of Obstetricians and Gynecologists, the American College of Surgeons, the American Health Care Association, the American Hospital Association, the American Medical Association; the absence, of course, of the American Trial Lawyers Association.

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

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

One of the previous speakers, the gentleman from Georgia (Mr. PRICE), said that some victims have won, quote, the malpractice lottery. Tell that to, for example, Ms. Linda McDougal, who had a double mastectomy because a doctor misdiagnosed her condition and recommended this radical procedure. Does the gentleman from Georgia (Mr. PRICE) really think that Ms. McDougal has won some sort of lottery? I just cannot believe that.

Key findings from ''The Growth of Physician Medical Malpractice Payments: Evidence From The National Practitioner Data Bank'' show that the average annual malpractice claim payout rose only 4 percent a year from 1991 to 2003, in line with the average overall increase in the cost of health care.

Time will not permit me to go into a litany of statistics and supporters, but I do want to point out that the thought seems to be that people do not want to practice medicine. Well, the number of doctors increased throughout the Nation from 1985 to 2001, even in States with no 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 doctors 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-Berry 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 of the gentleman from Florida?

There was no objection.

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 of this closed rule, 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 considering this legislation. 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.

Again, vote ''no'' on the previous question.

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

Mr. GINGREY. Mr. Speaker, I yield 1½ 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 which prohibited 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 in vaccines. 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 a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where,'' and it goes on.

The way I read this, these people who have been damaged, and we have been fighting for years to get them the ability to get money from 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. What this 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 children 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.

Mr. BURTON of Indiana. Thimerosal was approved as well. You say there is

language in here that does exempt vaccines?

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.

□ 1815

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 an open fashion.

Unfortunately, some opponents of this legislation seem content to demagogue 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. JPMSLIC 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 Otolaryngology—Head and Neck Surgery

V. American College of Osteopathic Family 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 noneconomic 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 make us 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. BARTON) 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.

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 this bill plays with its narrow, misguided and ineffective focus and attack on trial lawyers.

And we all know, because we read the same reports that H.R. 5 bill will not fix the problem. The causes of high premiums are not the result of medical malpractice lawsuits or increasing payouts. In fact, a recent report commissioned by the Center for Justice and Democracy clearly demonstrates that over the last 5 years, there has been little to no increase in malpractice payouts.

Despite this, there have been humongous increases in malpractice insurance premiums. In fact, the report found that many of the leading malpractice insurers have substantially increased their premiums while decreasing their actual claims payments and reducing the amount they project to payout in the future, but significantly increasing their surplus or profits.

Let me just give you a few examples from the report so everyone understands:

1. In fact, in 2004 alone, the leading medical malpractice insurers took in about three times as much in premiums as they paid out in claims.

2. And, in 2004, the 15 leading malpractice carriers, taken in sum, increased their premiums by 9.3%, yet their losses fell by 21.1%.

3. Between 2000 and 2004, the premiums of the 15 leading medical malpractice insurers have more than doubled, yet the amount they paid out in claims during this same period remained constant. In fact, during this time frame, gross premiums increased 134.5% while gross payouts increased by 9.6%.

4. Another way to put it: between 2000 and 2004, the increase in premiums collected by the 15 leading medical malpractice insurers on a net basis was twenty-one times as great as the increase in payments on a net basis.

So not allowing for Democratic alternatives which sought to address the full scope of the malpractice problem, and provide a real remedy has precluded us from having a bill on the floor that merits our vote.

My colleagues please don't disrespect patients and their families and their pain and suffering; and do not play the hard working doctors.

Vote no on H.R. 5 and then let's pass a bill that truly addresses the crisis that many factors—like lack of insurance, language barriers, limited providers of color, inadequate funding for prevention and malpractice insurance coverage is creating.

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 legislative 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 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 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 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 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 60 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.

PROVIDING FOR CONSIDERATION OF H.R. 3045, DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

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-United States Free Trade Agreement. All points of order against the bill and against its consideration are waived. The bill shall be considered as read. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. 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. 2. 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. 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 for 1 hour.

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 consume. 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. Peace and prosperity are more indivisible than ever before in human history.''

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 found good 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.

Together with Tomas Borge, the former defense minister, the only surviving founding member of the Sandinista Front, they oppose this agreement because it would solidify the region's commitment to political and economic freedom, thus subverting their plans for reinstalling leftist control in Nicaragua. The only alliance they 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-American demogogues, starting with 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. This would obviously be a harsh reality for the people of Central America.

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. Bonner, 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 ignore the fact that the strength of democratic and free market institutions throughout the globe, particularly in our own backyard, directly impacts our own security. By the same token, we cannot ignore 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 all of 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 comes to consumers right here in the United States of America.

As a result of this close, complementary relationship, apparel manufactured in the DR–CAFTA region is made up of 80 percent U.S.-made content. By contrast, Chinese 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 to the principles 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 Dominican Republic Central 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 Committee on Rules, 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 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.

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 on this bill, to make clear to the American people, and especially to their constituents at home, why he or she supports or opposes this trade bill. Mr. Speaker, if every opponent wanted time to speak, then this rule would allow each of them to have just 16.8 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 complete erosion of debate 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 much better than the shabby treatment handed to them by the Republicans of the Committee on Rules.

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 have a $162 billion trade deficit with China, and a $42 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.

No, 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 the 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 bipartisan fashion—and because it brings the benefits of trade to all countries, and to all the people of those countries, including the poorest.

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 now have a $162 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—which is about two to three 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—with the exception 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-value American goods—but 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. To take 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 enforce its own labor laws. CAFTA countries' labor laws, Mr. Speaker, are internationally recognized as weak.

Whether you are looking at reports by Human Rights Watch, Amnesty International, the International Labor Organization, the United Nations, or our own State Department Country Reports—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 the enactment of stronger labor laws and dispute mechanisms in the CAFTA region. But under the agreement before us today, that opportunity has been squandered.

Mr. Speaker, I am very familiar with the CAFTA region. I have traveled widely throughout Central America, especially in El Salvador, Guatemala and Nicaragua. I 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 anticipation of the initiation of talks 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 consultation and accommodation during the conception and negotiations 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 anyone and everyone who tried to raise issues 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, campesino groups, 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.

Vote it down, Mr. Speaker. Vote it down.

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

Mr. DREIER. 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 his 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, but no 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 gentlewoman 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.

Ms. SLAUGHTER. 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, succumb 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 leader 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. But 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 unethical arm-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 we 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 that was 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 undivided 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, it turns back the clock on labor standards, 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 last night I asked the Republicans on the Committee on Rules for their assurance that we will not again see the egregious abuses of power and the trampling of the democratic process that we experienced in the last Congress on the Medicare debate, because we should be having 8 hours of debate and a 15-minute vote, not the other way around. Their reply was that ''rules would be followed,'' but they must not have meant the Rules of the House of Representatives when they made that promise, because what actually followed was a shut-down of any consideration of amendments to the medical malpractice bill, the prevention of any up-or-down votes on amendments to the China Trade Act, and the restriction of debate in consideration of CAFTA.

For the sake of the millions of American families depending on this Congress to spend the time and get it right on legislation, and especially on CAFTA, I hope that this time the debate lasts longer than the vote.

□ 1845

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

Mr. Speaker, let me just say that this rule is in compliance with the 1974 Trade Act, which calls for an up-or-down vote on these agreements.

And I also believe that it is very important to note, as my colleague has just pointed out, that for more than a decade, on every single trade agreement that has come before this House, we have had 2 hours of general debate.

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, 80 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 grant central Washington's apple, pear, and cherry growers immediate duty-free access to Central American and to Dominican Republic markets.

These tariffs currently range from 14 to 25 percent. And our fruit growers' major competitor in the region, Chile, which has already signed a trade treatment with CAFTA countries, is not subject to similar duties. This does level the playing field.

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, central Washington and 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 Northwest Horticultural Council, the Washington State Hispanic Chamber of Commerce, the Washington Apple Commission, the Washington State Potato Commission, to name only a few.

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 this measure and the benefits that it 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 Florida (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 my say at the outset, 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 feigned surprise at the illegal gambling in his club, let me just say that I am shocked, 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 shafta. 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 reference 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 environmental 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 be ashamed of ourselves.

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 NAFTA.

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 manufacturing 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 from Chile.

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) when we first came in 1981 during the Reagan administration. We had huge security problems in Central America. Communism was on the rise; Castro was having all kinds of influence in that part of the world.

Since then, wonderful things have happened. These communist countries have collapsed. They have embraced democracy. They have embraced capitalism. And they are looking where? They are looking north to the United States. There is where they find their future. There is where their future is. Let us not cut them short.

This is a good, good bill. It is well balanced. It is good for American business. It is good for American farmers. It is good for American laborers. Let us get together and pass this bill.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to gentlewoman from California (Ms. MATSUI).

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

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this 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 chapters and are most egregious on 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.

There 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 are a step 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.

I am sure no one will be surprised if this vote is held open until enough Members relent, as we have seen before. But this flawed agreement should be returned to the President to be renegotiated.

Trade is a powerful phenomenon that is capable or raising living standards, encouraging innovation, and building lasting ties between nations. And as we work to conclude the Doha Round, global trade is at a critical point.

America must promote trade policies that acknowledge the fundamental rights of workers and reassert our belief that the benefits of trade should flow throughout the population. If the House passes CAFTA, we will be abdicating this duty.

The future direction of trade will be shaped by our actions today, as the implication of the vote will resonate far beyond Latin America. While trade agreements encourage the flow of goods and services, they also embody important values and principles.

What message does it send if we start passing trade agreements that concentrate benefits in the hands of special interests and the privileged few at the expense of workers in the United States and in some of the poorest countries in the world?

I have heard some of my colleagues on the other side of the aisle hesitantly talk about this agreement saying trade is usually a good thing, so I guess I will vote for CAFTA.

I say to you, that, yes, free trade agreements are a good thing, but only when based on solid principles that reflect the concern for all parties involved. CAFTA fails to meet the standard.

I urge my colleagues to reject this inferior agreement. If we do not get CAFTA right, we risk undercutting support for all future trade agreements.

□ 1900

Mr. DREIER. Mr. Speaker, I would say to my colleague that free trade is a good thing. The labor rights that are recognized here in the opening up of markets for U.S. workers into Central America is very important.

Mr. Speaker, I yield 2 minutes to the gentleman from Indianapolis, Indiana (Mr. BURTON), my very good friend, the distinguished chairman of the Subcommittee on the Western Hemisphere, who has been a champion for freedom and democracy in Central America for years.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague for that very eloquent introduction. I am not sure I deserve it, but I appreciate it.

Let me say to my colleagues who are undecided and my colleagues on the Democrat side of the aisle, I voted against NAFTA. I voted against GATT. I voted against the World Trade Organization. So why am I for CAFTA? And I want to tell you why, because I think it is extremely important. There are three reasons.

First of all, right now as the gentleman from Florida (Mr. SHAW) said a minute ago, the trade balance is in favor of the countries in the Caribbean and the Central American nations because they have duty free into our country, and we have to pay a duty to sell products in their country. CAFTA will change that. It will balance it out so there will be free trade in both directions. That will encourage more trade in both directions.

Second, this is a national security issue, and the President of the United States talked about this today, and we need to talk about it right now on this floor.

The gentleman from Florida (Mr. SHAW) talked about what went on in the early 1980s when we had wars in Nicaragua and El Salvador, and people's bodies were laying all over the place because of this insurrection and these civil wars down there. If we do not do something to stabilize those countries in Central and South America, we will see wars not only in Nicaragua and El Salvador and possibly other Central American countries, we will see them in South America. We have got governments down there that are trying to export revolution right now by undermining some of the fledgling democracies in Central and South America.

CAFTA is one of the mechanisms that we could use to stabilize those fledgling democracy by creating more jobs and helping fight poverty in those countries. It is extremely important from a national security standpoint. That is one of my biggest concerns. If there is destabilization in those Central and South American countries, you can rest assured that there will be massive flight from those countries when wars break out, and they will be coming north. We have an immigration problem right now that we must solve, and we have talked about this time and again. But the problem is going to be exacerbated and made a lot worse if we let those countries, those fledgling democracies, starting to be destabilized by revolutionaries. There are governments down there right now that are using their resources to undermine some of these democracies, and we need to do everything we can to countermand that.

This is a very important piece of legislation. It is very important. I hope my colleagues will see that and vote for it.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), who believes that it is shameful that the majority has stifled debate on this important trade agreement.

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I want to make a quick note of this. Is the previous speaker arguing that NAFTA derailed illegal immigration to the United States or slowed it down?

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 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 they are 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 firms.

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 dealing with these side agreements that we had under NAFTA and China, NTPR, and the two fast tracks. And, in fact, here is one in a

newspaper yesterday after the side agreement that we made on textiles. It said, The nonprofit Public Citizen reviewed past trade votes and found that 89 percent of the side deals affecting trade policy were broken. Never enacted. And, in fact, I got that information, and it is about a 40-page attachment with all the broken side agreements. Very sobering to read. Promises made in the midst of negotiations, then promises broken.

But let me just say this, and I want to be positive here. These are the trade agreements, these are the side agreements that President Bush made, and although there have been almost 89 broken agreements, President Clinton, of all the ones he has made, 3 of the over 80 have been by President Bush. The vast majority of the side agreements that President Bush has made he has kept, and they are on the books today.

So is there a difference between this and past agreements? I think the difference is that we have a President who has honored his side agreements in the past 3 or 4 years and will honor them again. That is his track record. He has made side agreements, and the vast majority of those he has abided by.

As we talk about these side 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 promised 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 undelivered. The history of broken side agreements.'' That was in the paper about CAFTA.

Again, I will say to you, this President has honored his agreements.

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 will hurt 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, further exacerbating 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 not stand 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 the 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 the dear friend, a hard-working 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 more competition. Competition 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.

Now, CAFTA is a very simple trade agreement regardless of what you hear tonight. It allows our consumers to buy a few more items from Central America, and it allows our producers to sell a whole lot more to those same countries. It creates jobs. It will help ease our trade deficit. It is more than fair trade for us.

Now, you hear some people opposing CAFTA, claiming that somehow this is actually going to hurt jobs. Yet 80 percent of Central America are already entering our country duty free. What will help us is our ability to export to those countries duty free.

Now, some are talking about labor and environmental standards; but, Mr. Speaker, by helping further impoverish Latin America, we are somehow going to help improve their labor standards? We are somehow going to help improve their environmental standards? I think not.

There is no rational economic reason, Mr. Speaker, to oppose CAFTA. Increasingly this debate against CAFTA is boiling down to raw protectionism and bitter partisanship. It is amazing how many people love competition and the products they buy, but they seem to hate competition in the products they sell. That just cheats American consumers.

And then there are those who just reflexively oppose anything that President Bush favors, anything, regardless of its merits. Mr. Speaker, we ought to all read the headlines. Everybody knows about the threats and arm-twisting taking place on the Democrat side of the aisle. It is time to put aside protectionism, put aside the bitter partisanship. It is time to vote for personal economic freedom. Vote for more American exports, and vote for the rule for the Central American Free Trade Agreement.

Mr. MCGOVERN. Mr. Speaker, I would just like to point out that the little black book that the chairman of the Committee on Rules read from also said that the Rules of the House allows for up to 20 hours of debate on trade agreements.

Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN), who believes that a full and thorough debate is a good thing.

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

Mr. CARDIN. Mr. Speaker, let me thank my friend for yielding me time.

Mr. Speaker, I, along with many Democrats, have supported every trade agreement that has been presented. We do that because we believe trade has the potential to generate economic growth and raise the standard of living. The trick though is to make sure that we realize that potential.

During the last several decades we have really changed our focus in opening up markets for American manufacturers and producers. We have initially worked on removing tariff barriers. Now we are concerned about nontariff barriers. It does not mean we have done all we need to on tariff barriers, but the priority in our country has been to open up markets by removing nontariff barriers. That is why we spend a lot of time on intellectual property protection, on opening up opportunity for services, and, yes, Mr. Speaker, working on basic international labor standards.

I believe everybody in this body would agree with me that we do not

want products coming into this country that violate child labor standards. Well, the same is true with other basic internationally recognized labor rights. We have made progress. The Caribbean Basin Initiative, the CBTPA, AGOA and GSP all have improved labor standards around the globe because we have raised the issue and raised the bar.

□ 1915

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 their 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 fails in 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 standard of living in the Central American 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 Chair 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 alter 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 giving up more 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 outrightly kept. He has as bad a record as President Clinton.

Mr. DREIER. Mr. Speaker, I yield myself 30 seconds to say that the democratically elected parliaments in El Salvador, Honduras, and Guatemala all have had votes on this issue. It was 49 to 30 in the democratically elected parliament of El Salvador; 126 to 12 in the democratically elected parliament of Guatemala; and 100 of 128 legislators in Honduras were supportive of the Central American Free Trade Agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from Midland, Texas (Mr. CONAWAY), my very good friend and a hard-working new Member of Congress.

Mr. CONAWAY. Mr. Speaker, I appreciate the gentleman yielding me this time, and I rise tonight to support this rule and also the underlying document that we will vote on later on tonight.

We have heard it is important for national security issues, and it is. Strengthening these six democracies, fledgling though they may be, makes America a safer place to be.

We have heard that it is good for immigration control, and it is. Prosperity and jobs created in Central American countries will lessen the pressure of those folks trying to percolate up through Mexico and trying to get into America to get a job here.

We have heard it is good for trade, and it is. Our manufacturers and producers will no longer pay the tariffs and duties we are currently paying. Manufacturers like Kraft Macaroni & Cheese and breakfast cereals will now be able to be sold in these Central American countries with that trade.

It seems odd to me if I have a job, and a group comes to me and says we want to help you get a better job, we want you to earn more and we want the labor standards to be improved, but we want you to keep that job, well, that is the kind of idea I would like to have help with. But if I have another side that says I want to help you with labor standards and I want to help you have a better job, but in the meantime I want you to be unemployed, that does not make a lot of sense to me.

Mr. Speaker, I ask my colleagues to vote for this rule and the underlying bill.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip who recognizes that curtailing 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 lead, 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 relegate 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, promoted 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, regrettably 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 interesting, Mr. Speaker, that given the problems that we have with CAFTA, given the questions that have been raised, that the majority is unwilling to give sufficient debate 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 put on this floor to give it a 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 controversial 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 that the Republican leadership is shortchanging 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 visit your 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.

□ 1930

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. Why, so rather than sending aid, we would open up the U.S. market to these struggling countries in the Caribbean.

We now have an opportunity to respond to the fact that we have provided unlimited access to our consumer market by these countries.

Mr. Speaker, it is true, the gentleman from Florida (Mr. SHAW) and I have been here for a quarter century, the gentleman from Indiana (Mr. BURTON) a little less than that. I have never witnessed greater politicization or a greater mischaracterization of a piece of legislation than I have this. For the last decade we have had 2 hours of debate on trade agreements 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 going 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 third of a trillion dollars 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 (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.

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. Is there objection to the request of the gentleman from Pennsylvania?

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 reauthorizing 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. 3453

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.

(a) IN GENERAL.—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''and the Surface Transportation Extension Act of 2005, Part IV'' and inserting ''the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V''.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act (119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$2,301,370,400'' and inserting ''$2,324,000,000''.

(2) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking ''July 27'' and inserting ''July 30''.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$27,968,968,718 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$28,243,990,320 for the period of October 1, 2004, through July 30, 2005''.

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)—

(A) by striking ''July 27'' and inserting ''July 30'';

(B) by striking ''and the Surface Transportation Extension Act of 2005, Part IV'' and inserting ''the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V''; and

(C) by striking ''82.2 percent'' and inserting ''83 percent''; and

(2) in paragraph (2)—

(A) by striking ''July 27, 2005, shall not exceed $28,520,554,600'' and inserting ''July 30, 2005, shall not exceed $28,801,000,000''; and

(B) by striking ''$525,205,602'' and inserting ''$530,370,000''; and

(3) in paragraph (3) by striking ''July 27'' and inserting ''July 30''.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$289,334,862'' and inserting ''$292,179,920''.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA–21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(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 ''$10,684,934'' and inserting ''$10,790,000''.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$202,191,828 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$204,180,000 for the period of October 1, 2004, through July 30, 2005''.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$135,616,470 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$136,950,000 for the period of October 1, 2004, through July 30, 2005''.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$16,438,360 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$16,600,000 for the period of October 1, 2004, through July 30, 2005''.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$115,068,520 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$116,200,000 for the period of October 1, 2004, through July 30, 2005''.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$31,232,884 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$31,540,000 for the period of October 1, 2004, through July 30, 2005''.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(i) in clause (i) by striking ''$8,219,180'' and inserting ''$8,300,000'';

(ii) in clause (ii) by striking ''$4,109,590'' and inserting ''$4,150,000''; and

(iii) in clause (iii) by striking ''$4,109,590'' and inserting ''$4,150,000''.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$21,780,827 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$21,995,000 for the period of October 1, 2004, through July 30, 2005''.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$9,041,098 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$9,130,000 for the period of October 1, 2004, through July 30, 2005''.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$4,109,590 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$4,150,000 for the period of October 1, 2004, through July 30, 2005''.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$90,410,980 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$91,300,000 for the period of October 1, 2004, through July 30, 2005''.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$410,959 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$415,000 for the period of October 1, 2004, through July 30, 2005''.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$20,547,950 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$20,750,000 for the period of October 1, 2004, through July 30, 2005''.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

''(G) $107,900,000 for the period of October 1, 2004, through July 30, 2005.'';

(B) in subsection (a)(2) by striking ''$1,643,836 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$1,660,000 for the period of October 1, 2004, through July 30, 2005''; and

(C) in the item relating to fiscal year 2005 in table contained in subsection (c) by striking ''$2,136,986,800'' and inserting ''$2,158,000,000''.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking ''$1,232,877'' and inserting ''$1,245,000''; and

(B) by striking ''July 27'' and inserting ''July 30''.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA–21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$84,657,554 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$85,490,000 for the period of October 1, 2004, through July 30, 2005''.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$41,095,900 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$41,500,000 for the period of October 1, 2004, through July 30, 2005''.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$16,438,360 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$16,600,000 for the period of October 1, 2004, through July 30, 2005''.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$25,479,458 for the period of October 1, 2004, through July 27, 2005''

and inserting ''$25,730,000 for the period of October 1, 2004, through July 30, 2005''.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$90,410,980 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$91,300,000 for the period of October 1, 2004, through July 30, 2005''.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$100,273,996 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$101,260,000 for the period of October 1, 2004, through July 30, 2005''.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$21,780,827 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$21,995,000 for the period of October 1, 2004, through July 30, 2005''.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$178,767,165 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$180,525,000 for the period of October 1, 2004, through July 30, 2005''.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$29,917,815 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$30,212,000 for the period of October 1, 2004, through July 30, 2005''.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$15,452,058 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$15,604,000 for the period of October 1, 2004, through July 30, 2005''.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$410,959 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$415,000 for the period of October 1, 2004, through July 30, 2005''.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''$82,191,800'' and inserting ''$83,000,000''; and

(2) by striking ''July 27'' and inserting ''July 30''.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''$82,191,800'' and inserting ''$83,000,000''; and

(2) by striking ''July 27'' and inserting ''July 30''.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$616,439 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$622,500 for the period of October 1, 2004, through July 30, 2005''.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''$4,315,069'' and inserting ''$4,357,500'';

(2) by striking ''$205,480'' and inserting ''$207,500''; and

(3) by striking ''July 27'' each place it appears and inserting ''July 30''.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1) by striking ''$8,219,180 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$8,300,000 for the period of October 1, 2004, through July 30, 2005''; and

(2) in paragraph (2) by striking ''$8,219,180 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$8,300,000 for the period of October 1, 2004, through July 30, 2005''.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''and section 4 of the Surface Transportation Extension Act of 2005, Part IV'' and inserting ''section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V''; and

(2) by striking ''and section 4(a) of the Surface Transportation Extension Act of 2005, Part IV'' and inserting ''section 4(a) of the Surface Transportation Extension Act of 2005, Part IV, and section 4(a) of the Surface Transportation Extension Act of 2005, Part V''.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''and section 4 of Surface Transportation Extension Act of 2005, Part IV'' and inserting ''section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V'';

(2) by striking ''and section 4 of the Surface Transportation Extension Act, Part IV'' the first place it appears and inserting ''section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V''; and

(3) by striking ''and section 4 of the Surface Transportation Extension Act, Part IV'' the second place it appears and inserting ''section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V''.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''and section 4 of the Surface Transportation Extension Act, Part IV'' and inserting ''section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V''.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking ''$92,054,794 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''.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking ''$90,410,958 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$91,315,068 for the period of October 1, 2004, through July 30, 2005''.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$135,616,438 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$136,972,603 for the period of October 1, 2004, through July 30, 2005''.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$59,178,082 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$59,769,863 for the period of October 1, 2004, through July 30, 2005''.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$16,438,356 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$16,602,704 for the period of October 1, 2004, through July 30, 2005''.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$32,876,712 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$33,205,479 for the period of October 1, 2004, through July 30, 2005''.

(f) NATIONAL DRIVER REGISTER.—

(1) FUNDING.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$2,958,904 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$2,988,493 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 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''$211,682,467 for the period of October 1, 2004, through July 27, 2005'' and inserting ''$213,799,290 for the period of October 1, 2004, through July 30, 2005''.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(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 31107(a)(6) of such title is amended to read as follows:

''(6) $16,602,740 for the period of October 1, 2004, through July 30, 2005.''.

(2) EMERGENCY CDL GRANTS.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking ''July 27'' and inserting ''July 30''; and

(B) by striking ''$821,918'' and inserting ''$830,137''.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''$821,918'' and inserting ''$830,137''; and

(2) by striking ''July 27'' and inserting ''July 30''.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking ''JULY 27, 2005'' and inserting ''JULY 30, 2005'';

(B) by striking ''$8,547,000'' and inserting ''$8,550,000''; and

(C) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(3) in paragraph (3)(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 ''$41,095,900'' and inserting ''$41,506,850''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(b) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) 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 ''$2,796,817,658''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(3) in paragraph (2)(B)(vii) by striking ''July 27, 2005'' and inserting ''July 30, 2005''; and

(4) in paragraph (2)(C) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(c) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking ''JULY 27, 2005'' and inserting ''JULY 30, 2005'';

(2) in the matter preceding paragraph (1) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(3) in paragraph (1) by striking ''$3,986,261'' and inserting ''$4,026,123'';

(4) in paragraph (2) by striking ''$41,095,900'' and inserting ''$41,506,850'';

(5) in paragraph (3) by striking ''$79,100,000'' and inserting ''$79,102,926'';

(6) in paragraph (4) by striking ''$210,000,000'' and inserting ''$212,000,000''; and

(7) in paragraph (5) by striking ''$5,712,330'' and inserting ''$5,769,452''.

(d) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(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 subparagraph (A)(vii)—

(A) by striking ''$2,309,000,366'' and inserting ''$2,336,442,169''; 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''.

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(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 subparagraph (A)(vii)—

(A) by striking ''$49,546,681'' and inserting ''$50,146,668''; 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''.

(f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(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 subparagraph (A)(vii)—

(A) by striking ''$39,554,804'' and inserting ''$39,950,343''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(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''.

(g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking ''JULY 27, 2005'' and inserting ''JULY 30, 2005'';

(2) in the matter preceding paragraph (1) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(3) in paragraph (1) by striking ''$4,315,070'' and inserting ''$4,358,219'';

(4) in paragraph (2) by striking ''$6,780,824'' and inserting ''$6,848,630''; and

(5) in paragraph (3)—

(A) by striking ''$3,287,672'' and inserting ''$3,320,548''; and

(B) by striking ''$821,918'' and inserting ''$830,137''.

(h) 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 subparagraph (A)—

(A) by striking ''$4,131,508'' and inserting ''$4,180,822''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(3) in subparagraph (B) by striking ''July 27, 2005'' and inserting ''July 30, 2005''; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(B) in paragraph (1)(A) by striking ''$1,643,836'' and inserting ''$1,660,274'';

(C) in paragraph (1)(B) by striking ''$1,643,836'' and inserting ''$1,660,274''; and

(D) in paragraph (2) by striking ''July 27, 2005'' and inserting ''July 30, 2005'' .

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(j) ADMINISTRATION AUTHORIZATIONS.—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 subparagraph (A)(vii)—

(A) by striking ''$53,709,604'' and inserting ''$54,350,686''; 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''.

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking ''$82,739,750'' and inserting ''$83,767,125''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005'';

(2) in paragraph (1)(B)(vii) by striking ''July 27, 2005'' and inserting ''July 30, 2005''; and

(3) in paragraph (2) by striking ''July 27, 2005, not more than $8,219,180'' and inserting ''July 30, 2005, not more than $8,301,370''.

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking paragraph (1)(G) and inserting the following:

''(G) $5,769,452 for the period of October 1, 2004, through July 30, 2005.''; and

(2) in paragraph (2)—

(A) by striking ''$1,428,082'' and inserting ''$1,428,124''; and

(B) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(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) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''$6,335,343,944'' and inserting ''$6,398,695,996''; and

(2) by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''July 27, 2005'' and inserting ''July 30, 2005''; and

(2) by striking ''$3,986,000'' and inserting ''$4,026,164''.

(p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking ''July 27, 2005'' and inserting ''July 30, 2005,''; and

(2) by striking ''$4,100,000'' and inserting ''$4,150,685''.

(q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

(s) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking ''July 27, 2005'' and inserting ''July 30, 2005''.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7)

of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended to read as follows:

''(7) $8,301,370 for the period of October 1, 2004, through July 30, 2005;''.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

''(4) FIRST 303 DAYS OF 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 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

''(B) $6,641,096 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 Safety Act of 1998 (16 U.S.C. 777g–1(d)).

''(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.''.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking ''$4,100,000'' and inserting ''$4,150,685''; and

(2) by striking ''$1,643,836'' and inserting ''$1,660,274''.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking ''July 28, 2005'' and inserting ''July 31, 2005'',

(B) by striking ''or'' at the end of subparagraph (N),

(C) by striking the period at the end of subparagraph (O) and inserting '', or'',

(D) by inserting after subparagraph (O) the following new subparagraph:

''(P) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part V.'', and

(E) in the matter after subparagraph (P), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2005, Part IV'' and inserting ''Surface Transportation Extension Act of 2005, Part V''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking ''July 28, 2005'' and inserting ''July 31, 2005'',

(B) in subparagraph (L), by striking ''or'' at the end of such subparagraph,

(C) in subparagraph (M), by inserting ''or'' at the end of such subparagraph,

(D) by inserting after subparagraph (M) the following new subparagraph:

''(N) the Surface Transportation Extension Act of 2005, Part V,'', and

(E) in the matter after subparagraph (N), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2005, Part IV'' and inserting ''Surface Transportation Extension Act of 2005, Part V''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking ''July 28, 2005'' and inserting ''July 31, 2005''.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2005, Part IV'' each place it appears and inserting ''Surface Transportation Extension Act of 2005, Part V''.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking ''July 28, 2005'' and inserting ''July 31, 2005'', and

(B) by striking ''Surface Transportation Extension Act of 2005, Part IV'' and inserting ''Surface Transportation Extension Act of 2005, Part V''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking ''July 28, 2005'' and inserting ''July 31, 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation 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 Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) 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 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Ordering the previous question on H. Res. 385, by the yeas and nays;

Adoption of H. Res. 385, if ordered;

Adoption of H. Res. 386, 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. 5, HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

The SPEAKER pro tempore. The pending business is the question on ordering the previous question on H. Res. 385 on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

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

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]

YEAS—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
Hefley
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
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
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)

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
Millender-McDonald
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.

□ 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.

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
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

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)
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
Millender-McDonald
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

□ 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.

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.

The vote was taken by electronic device, and there were—yeas 227, nays 201, not voting 5, as follows:

[Roll No. 442]

YEAS—227

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
Hefley
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
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
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)
Sensenbrenner
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)

NAYS—201

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
Millender-McDonald
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
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

NOT VOTING—5

Brady (PA)
Carson
Davis, Jo Ann
Leach
Murphy

□ 2015

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.

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, rollcall No. 441, and rollcall No. 442.

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. 3453. An act 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.

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

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. 243. 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.

DOMINICAN 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, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 3045 is as follows:

H.R. 3045

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 "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:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Arbitration of claims.
Sec. 107. Effective dates; effect of termination.

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. Retroactive application for certain liquidations and reliquidations of textile or apparel goods.

Sec. 206. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
Sec. 207. Reliquidation of entries.
Sec. 208. Recordkeeping requirements.
Sec. 209. Enforcement relating to trade in textile or apparel goods.
Sec. 210. Regulations.
TITLE III—RELIEF FROM IMPORTS
Sec. 301. Definitions.
Subtitle A—Relief From Imports Benefiting From the Agreement
Sec. 311. Commencing of action for relief.
Sec. 312. Commission action on petition.
Sec. 313. Provision of relief.
Sec. 314. Termination of relief authority.
Sec. 315. Compensation authority.
Sec. 316. Confidential business information.
Subtitle B—Textile and Apparel Safeguard Measures
Sec. 321. Commencement of action for relief.
Sec. 322. Determination and provision of relief.
Sec. 323. Period of relief.
Sec. 324. Articles exempt from relief.
Sec. 325. Rate after termination of import relief.
Sec. 326. Termination of relief authority.
Sec. 327. Compensation authority.
Sec. 328. Confidential business information.
Subtitle C—Cases Under Title II of the Trade Act of 1974
Sec. 331. Findings and action on goods of CAFTA–DR countries.
TITLE IV—MISCELLANEOUS
Sec. 401. Eligible products.
Sec. 402. Modifications to the Caribbean Basin Economic Recovery Act.
Sec. 403. Periodic reports and meetings on labor obligations and labor capacity-building provisions.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve 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. 3803(b));

(2) to strengthen and develop economic relations between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua for their mutual benefit;

(3) to establish free trade between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the Dominican Republic-Central America-United States Free Trade Agreement approved by the Congress under section 101(a)(1).

(2) CAFTA–DR COUNTRY.—Except as provided in section 203, the term ''CAFTA–DR country'' means—

(A) Costa Rica, for such time as the Agreement is in force between the United States and Costa Rica;

(B) the Dominican Republic, for such time as the Agreement is in force between the United States and the Dominican Republic;

(C) El Salvador, for such time as the Agreement is in force between the United States and El Salvador;

(D) Guatemala, for such time as the Agreement is in force between the United States and Guatemala;

(E) Honduras, for such time as the Agreement is in force between the United States and Honduras; and

(F) Nicaragua, for such time as the Agreement is in force between the United States and Nicaragua.

(3) COMMISSION.—The term ''Commission'' means the United States International Trade Commission.

(4) HTS.—The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

(5) TEXTILE OR APPAREL GOOD.—The term ''textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3.29 of the Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 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—

(1) the Dominican Republic-Central America-United States Free Trade Agreement entered into on August 5, 2004, with the Governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, and submitted to the Congress on June 23, 2005; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on June 23, 2005.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that countries listed in subsection (a)(1) have taken measures necessary to comply with the provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to provide for the Agreement to enter into force with respect to those countries that provide for the Agreement to enter into force for them.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term ''State law'' includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(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 or 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.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) 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.

(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 provisions under 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.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(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 date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

SEC. 104. 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. 2155); and

(B) the Commission;

(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);

(3) a period of 60 calendar days, beginning on the first day on which the requirements

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 OR 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, 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 claim against 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 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 CAFTA–DR STATUS.—During any period in which a country ceases to be a CAFTA–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 with respect to 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, or

(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 CAFTA–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 CBERA STATUS.—

(A) IN GENERAL.—Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA–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), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act, for purposes of—

(i) sections 771(7)(G)(ii)(III) and 771(7)(H) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(G)(ii)(III) and 1677(7)(H));

(ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

(iii) section 274(h)(6)(B) of the Internal Revenue Code of 1986.

(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 agree to with 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 reciprocal and mutually advantageous concessions provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.

(a) GENERAL PROVISIONS.—

(1) APPLICABILITY 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 ''applicable 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 the safeguard 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 the safeguard good.

(3) SCHEDULE RATE OF DUTY.—For purposes of subsection (b), the term ''schedule rate of duty'' means, with respect to a safeguard good, the rate of duty for that good that is 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 a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) subtitle A of title III of this Act; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) TERMINATION.—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

(7) NOTICE.—Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

(b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

(1) IN GENERAL.—In addition to any duty proclaimed under subsection (a) or (b) of 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, prior to such importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is 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—

(A) in the case 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—

(i) 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. 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

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 for 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 if—

(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, exclusively 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 a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) BUILD-DOWN METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$\text{RVC} = \frac{\text{AV–VNM}}{\text{AV}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term ''RVC'' means the regional value-content of the 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.

(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:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term ''RVC'' means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term ''AV'' means the adjusted value of the good.

(iii) VOM.—The term ''VOM'' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(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:

$$\text{RVC} = \frac{\text{NC–VNM}}{\text{NC}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) AUTOMOTIVE GOOD.—The term ''automotive good'' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC.—The term ''RVC'' means the regional value-content of the automotive good, 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 automotive good, but does not include the value of a material that is self-produced.

(C) MOTOR VEHICLES.—

(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good 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 subparagraph (A), over the producer's fiscal year—

(I) with respect to all motor vehicles in any 1 of the categories described in clause (ii); or

(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.

(ii) CATEGORIES.—A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of 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; or

(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.

(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause (i) separately for such goods sold to 1 or more motor vehicle producers; or

(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of one or more of the CAFTA–DR countries.

(E) CALCULATING NET COST.—The importer, exporter, or producer shall, consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, determine the net cost of an automotive good under subparagraph (B) by—

(i) calculating 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 resulting 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.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) 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 interpretive 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, as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

(C) 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, refundable, 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 good, 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, refundable, 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 good, less the value of renewable scrap or 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 is 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 1901.90 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 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

(iv) Goods provided for in heading 2105.

(v) Beverages containing milk provided for in subheading 2202.90.

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

(E) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90.

(F) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

(G) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(H) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(I) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, a 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 the good for which origin is being determined under this section.

(3) TEXTILE OR APPAREL GOODS.—

(A) IN GENERAL.—Except as provided 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

(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV))(as in effect on the date of the enactment of this Act).

(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 shall be considered to be an originating good only if such yarns are wholly formed in the territory of a 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) CLAIM FOR 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 the 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 with and not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice for the good; and

(B) the quantities and value 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 the 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) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing 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 without regard to where it is produced.

(l) TRANSIT AND TRANSHIPMENT.—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 to 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 unless—

(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—

(A) in the case of textile or apparel goods, 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) ADJUSTED VALUE.—The term ''adjusted value'' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive 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 the international 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 subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(4) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term ''fungible good'' or ''fungible material'' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(5) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term ''generally accepted accounting principles'' means the recognized consensus or substantial authoritative support in the territory of a CAFTA–DR country with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(6) GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF ONE OR MORE OF THE CAFTA–DR COUNTRIES.—The term ''goods wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries'' means—

(A) plants and plant products harvested or gathered in the territory of one or more of the CAFTA–DR countries;

(B) live animals born and raised in the territory of one or more of the CAFTA–DR countries;

(C) goods obtained in the territory of one or more of the CAFTA–DR countries from live animals;

(D) goods obtained from hunting, trapping, fishing or aquaculture conducted in the territory of one or more of the CAFTA–DR countries;

(E) minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken in the territory of one or more of the CAFTA–DR countries;

(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 with a CAFTA–DR country and flying the flag of that country;

(G) goods produced on board factory ships from the goods referred to in subparagraph (F), if such factory ships are registered or recorded with that CAFTA–DR country and fly 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) used 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) recovered goods derived in the territory of one or more of the CAFTA–DR countries from used goods, and 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) gloves, glasses, 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 an originating material that is produced by a producer of a good and used in the production of that good.

(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 official interest rate for comparable maturities of the CAFTA–DR country in which the producer is located.

(14) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms ''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 engages 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, 85, or 87, or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516, and that—

(A) is entirely or partially comprised 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.

(o) 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 that a fabric or yarn is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25.4(e) of the Agreement.

(3) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104,

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 before the end of the 1-year period beginning on the date of the enactment of this Act, modifications 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 the United States, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

(ii) All 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 that is the subject of a request submitted under clause (i) is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President determines under clause (ii) that—

(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries; or

(II) no interested entity has objected to the request.

(iv) The time periods within which the President may issue a proclamation under clause (iii) 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 (ii).

(v) Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.

(vi) Not later than 6 months after proclaiming under clause (iii) 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 eliminate the restriction if the President determines 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 subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, 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 was submitted, if the President made a 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, any fabric, yarn, or fiber—

(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) 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) 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 available in commercial quantities in a timely manner in the CAFTA–DR countries.

(iv) A proclamation declared under clause (iii) shall take effect no earlier than 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 an opportunity for interested entities to submit comments and supporting evidence before the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

SEC. 204. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (14), the following:

''(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.''.

SEC. 205. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS OF TEXTILE OR APPAREL GOODS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (c), an entry—

(1) of a textile or apparel good—

(A) of a CAFTA–DR country that the United States Trade Representative has designated as an eligible country under subsection (b), and

(B) that would have qualified as an originating good under section 203 if the good had been entered after the date of entry into force of the Agreement for that country,

(2) that was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country, and

(3) for which customs duties in excess of the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement were paid,

shall be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and the Secretary of the Treasury shall refund any excess customs duties paid with respect to such entry.

(b) ELIGIBLE COUNTRY.—The United States Trade Representative shall determine, in accordance with article 3.20 of the Agreement, which CAFTA–DR countries are eligible countries for purposes of this section, and shall publish a list of all such countries in the Federal Register.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry of a textile or apparel good only if a request therefor is filed with the Bureau of Customs and Border Protection, within such period as the Bureau of Customs and Border Protection shall establish by regulation in consultation with the Secretary of the Treasury, that contains sufficient information to enable the Bureau of Customs and Border Protection—

(1)(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located; and

(2) to determine that the good satisfies the conditions set out in subsection (a).

(d) DEFINITION.—As used in this section, the term ''entry'' includes a withdrawal from warehouse for consumption.

SEC. 206. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) DISCLOSURE OF INCORRECT INFORMATION.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (9) as paragraph (10); and

(B) by inserting 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 at the end the following new subsection:

''(h) 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. The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

''(2) PROMPT AND VOLUNTARY DISCLOSURE OF INCORRECT INFORMATION.—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a CAFTA–DR certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice of such incorrect information to every person to whom the certification was issued.

''(3) EXCEPTION.—A person may not be considered to have violated paragraph (1) if—

''(A) the information was correct at the time it was provided in a CAFTA–DR certification of origin but was later rendered incorrect due to a change in circumstances; and

''(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.''.

(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended by adding at the end the following new subsection:

''(h) DENIAL OF PREFERENTIAL TARIFF TREATMENT 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 unsupported representations that goods qualify under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until the Bureau of Customs and Border Protection determines that representations of that person are in conformity with such section 203.''.

SEC. 207. RELIQUIDATION OF ENTRIES.

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1), by striking ''or section 202 of the United States-Chile Free Trade Agreement Implementation Act'' and inserting '', section 202 of the United States-Chile Free Trade Agreement Implementation Act, or section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act''; and

(2) in paragraph (2), by inserting ''or certifications'' after ''other certificates''.

SEC. 208. RECORDKEEPING REQUIREMENTS.

Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsection (g) as subsection (h);

(2) by inserting after subsection (f) the following new subsection:

''(g) CERTIFICATIONS OF ORIGIN FOR GOODS EXPORTED UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.—

''(1) DEFINITIONS.—In this subsection:

''(A) RECORDS AND SUPPORTING DOCUMENTS.—The term 'records and supporting documents' means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

''(i) the purchase, cost, and value of, and payment for, the good;

''(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

''(iii) the production of the good in the form in which it was exported.

''(B) CAFTA–DR CERTIFICATION OF ORIGIN.—The term 'CAFTA–DR certification of origin' means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

''(2) EXPORTS TO CAFTA–DR COUNTRIES.—Any person who completes and issues a CAFTA–DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

''(3) RETENTION PERIOD.—Records and supporting documents shall be kept by the person who issued a CAFTA–DR certification of origin for at least 5 years after the date on which the certification was issued.''; and

(3) in subsection (h), as so redesignated—

(A) by inserting ''or (g)'' after ''(f)''; and

(B) by striking ''that subsection'' and inserting ''either such subsection''.

SEC. 209. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the government of a CAFTA–DR country to conduct a verification pursuant to article 3.24 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination—

(A) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203 of this Act, or

(ii) is a good of a CAFTA–DR country,

is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support that claim;

(2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines 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

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine the country of origin of any such good; and

(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

(1) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support, 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

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(e) PUBLICATION OF NAME OF PERSON.—The Secretary may publish the name of any person that the Secretary has determined—

(1) is engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

SEC. 210. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 203;

(2) the amendment made by section 204; and

(3) any proclamation issued under section 203(o).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

In this title:

(1) CAFTA–DR ARTICLE.—The term ''CAFTA–DR article'' means an article that qualifies as an originating good under section 203(b).

(2) CAFTA–DR TEXTILE OR APPAREL ARTICLE.—The term ''CAFTA–DR textile or apparel article'' means a textile or apparel good (as defined in section 3(5)) that is a CAFTA–DR article.

(3) DE MINIMIS SUPPLYING COUNTRY.—

(A) Subject to subparagraph (B), the term ''de minimis supplying country'' means a CAFTA–DR country whose share of imports of the relevant CAFTA–DR article into the United States does not exceed 3 percent of the aggregate volume of imports of the relevant CAFTA–DR article in the most recent 12-month period for which data are available that precedes the filing of the petition under section 311(a).

(B) A CAFTA–DR country shall not be considered to be a de minimis supplying country if the aggregate share of imports of the relevant CAFTA–DR article into the United States of all CAFTA–DR countries that satisfy the conditions of subparagraph (A) exceeds 9 percent of the aggregate volume of imports of the relevant CAFTA–DR article during the applicable 12-month period.

(4) RELEVANT CAFTA–DR ARTICLE.—The term ''relevant CAFTA–DR article'' means the CAFTA–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 to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—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 that imports of the CAFTA–DR article constitute a substantial cause of serious injury or threat thereof 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.—No investigation may be 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 provided with respect to that CAFTA–DR article under this subtitle.

SEC. 312. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section. At that time, the Commission shall also determine whether any CAFTA–DR country is a 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. 1330(d) (1), (2), and (3)) shall be applied with respect 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 as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in 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 that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

SEC. 313. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 8.2.3 of the Agreement) of such relief at regular intervals during the period of its application.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President is authorized to provide under this section may not, in the aggregate, be in effect for more than 4 years.

(2) EXTENSION.—

(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 4 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of 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 to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the 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 which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) 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 the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

(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 equal annual stages ending on 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 on—

(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) imports of a CAFTA–DR article of a CAFTA–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 is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking ''and''; and

(2) by inserting before the period at the end '', and title III of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act''.

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a CAFTA–DR textile or apparel article of a specified CAFTA–DR country is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(3) DEADLINE FOR DETERMINATION.—The President shall make the determination under paragraph (1) no later than 30 days after the completion of any consultations held pursuant to article 3.23.4 of the Agreement.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(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 that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if—

(1) import relief previously has been provided under this subtitle with respect to that article; or

(2) the article is subject to import relief under—

(A) subtitle A; or

(B) chapter 1 of title II of the Trade Act of 1974.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of that Act.

SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

The President may not release information received in connection with a review under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, it shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C—Cases Under Title II of the Trade Act of 1974

SEC. 331. FINDINGS AND ACTION ON GOODS OF CAFTA–DR COUNTRIES.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), 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 CAFTA–DR country that qualify as originating goods under section 203(b) are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF CAFTA–DR COUNTRIES.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President may exclude from the action goods of a CAFTA–DR country with respect to which the Commission has made a negative finding under subsection (a).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIGIBLE PRODUCTS.

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by adding at the end the following new clause:

''(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.''.

SEC. 402. MODIFICATIONS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) FORMER BENEFICIARY COUNTRIES.—Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is

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 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(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.—(i) 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 CPTPA beneficiary country, and

''(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 clause (i) shall not be ineligible for such treatment because the article is imported directly from a former CBTPA beneficiary country.

''(iii) Notwithstanding 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. 1304) or section 334 of the Uruguay Round Agreements Act (19 U.S.C. 3592), 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 334; and

''(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 succeeding 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 entitled ''The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity''.

(3) 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) A description of the work done by the CAFTA–DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA–DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

(D) A summary of public comments received on—

(i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;

(ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and

(iii) the efforts made by the CAFTA–DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA–DR countries in affording to workers internationally-recognized worker rights through improved capacity.

(4) SOLICITATION OF PUBLIC COMMENTS.—The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D).

(b) PERIODIC MEETINGS OF SECRETARY OF LABOR WITH LABOR MINISTERS OF CAFTA–DR COUNTRIES.—

(1) PERIODIC MEETINGS.—The Secretary of Labor should take the necessary steps to 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;

(C) the work of the International Labor Organization in the CAFTA–DR countries, and 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 subsection (a), as the President deems appropriate, 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. RANGEL) each will control 1 hour.

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

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 rule, and that if it, in fact, carries 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 of you who are concerned 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, you are 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 laid their lives down 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.

We have before us tonight a freely negotiated trade agreement between sovereign countries freely elected by the people of those countries in Central America and in the Dominican Republic and in the United States. Yet a Member feels comfortable coming to the floor, and the gentlewoman from California said that they are going to be able to enforce their own trade laws. Does that not worry you? Well, so do we. She said, they could change their trade laws to allow child labor. Well, so can we. Will we? Of course not. What makes you think they will? The argument that somehow these people down there do not love their children any more than we do is, in fact, the words that were used earlier, that argument is shameful, it is disrespectful, and it is arrogant.

The idea that these people do not care about their families; have you driven around the greater Washington area and run into all these people from Central America who are here because they were driven here because of the political conditions in the 1980s, and that, in fact, the best import they have are the jobs people have here? You do not think they want to go home to their families?

This was negotiated by freely elected people, not because they want to sell products and services in the United States; they already have that. They want this so that our goods, our services, our jobs will come to Central America. And as you make the arguments that you make so shamefully, so disrespectfully, and so arrogantly about the governments freely elected, supported by their people, just remember, they want a job, too. They love their children. They are respectful of you; be respectful of them.

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

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

Mr. Speaker, let me join with the handful of Republicans in complimenting the chairman of the Committee on Ways and Means. His attack against arrogance has moved my heart, and those of others in the House, as well as his conversations with the immigrants and the newcomers to find out what should be in the trade bill. It certainly would have worked out a heck of a lot better if he had talked with some of the Democrats in the House.

This is one day that we all should remember. A small bill designed to help small countries. I was successful in having the Dominican Republic included in it. People who indeed wanted to work, wanted to have the dignity of having a job, wanted to be able to buy some of those U.S. products, really wanted to be partners, but they also wanted to be a part of this. Arrogance? How can you have a bill you say that is helping these people to make certain that they stave off communism and that become, indeed, a democratic country and, at the same time, exclude them from participating?

Yes, they want a Central American Free Trade Agreement. Yes, the Dominicans want to have a Dominican Republic Free Trade Agreement, but they want to be a part of it, and they want their people protected.

The gentleman talked about people who fought and died for our Constitution. You do not have to remind us about that. Patriotism can bring a tear to our eyes, but why do we not talk about the people who fought and died for workers' rights? Hey, can you not get that on your agenda? Those who fought and died for human rights, should that not be a part of it?

But let us talk about the moral values. The Catholic bishops in the United States, the Catholic bishops in the Dominican Republic, the Catholic bishops throughout the island; the religious leaders, the labor leaders, the peasants, the farmers, those who work in the free trade zone, do they not count for something?

This could have been an easy thing. This is no big deal. It was not before the President came down here. This could have been something we could have worked out. There has to be some compassion and less arrogance on the other side. We could have talked these things out.

And what is wrong with language that protects kids? Just because people do not have a design to commit crime does not mean you do not have a criminal code. Just because people are not inclined to abuse workers does not mean you do not have a code.

All we are saying is this: Let us protect intellectual property rights, let us protect our exporters, let us protect the multinationals, let us protect the big farm corporations. But, while you do that, protect the little guy where, in many of the countries, they have not the slightest clue, and they tell us each and every day, we want trade, we want to improve our lives; all we want to do is to be a part of the agreement.

Now, I was told that we cannot get back to that. With regard to the side agreements, I thought it meant the issue had to be related to trade. But some of the offers that I have heard that relate to getting votes around here, side agreements mean something else. And that is why maybe it may still be light tonight in California, but for those who are wide awake tonight, they should know it is not prime time in Washington, D.C. As a matter of fact, it is the worst of times.

This administration has taken a bill that could have meant something, a bill we could have been proud of, and has made a political toy out of it. They have excluded Democrats; they have offended some Republicans.

So when we hear about this bill tonight, it will not be a trade bill, it will be a bill that would say, which side are you on? Are you on the side of transparency, open discussion, wanting to protect American farmers, wanting to protect American entrepreneurs, wanting to do business with people in these small countries that are impoverished, and do you want to help those who are the lesser among us, who, at the end of the day, have been excluded from consideration from this treaty?

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

Mr. THOMAS. 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 8:30 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 has 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 he 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.

□ 2030

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

professions 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 force States and 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 fair trade policy for over 18 years, during which my chicken farmers will continue to face unfair trade competition. Eighteen years just to get even.

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. JEFFERSON), 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 supporting capacity-building provisions of this agreement.

I understand that our workers are concerned about our 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 workers of the region who are facing massive competition from Asia and elsewhere in the most significant formal source of economic livelihood, textile and apparel production. With nearly half the population of these countries living in extreme poverty, with formal employment, the continued competitiveness the textile and apparel industry in our and other CAFTA industries can promote is very, very critical.

I have heard my colleagues suggest that the CAFTA textile and apparel rules remain too strict to really make a difference. But the countries and the companies who invest and purchase from the region believe differently.

Many of us had hoped for more flexibility. 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 and many 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 the capacity-building program built into the CAFTA, which each of the six governments recently relied on in undertaking an unprecedented commitment 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 backwards step 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 their enforcement of existing laws. 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.

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 for 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?

What all of these countries, Jordan, Morocco and the Centrals, share are the same challenges in enforcement and lack of resources. In fact, the CAFTA provisions are stronger than those in NAFTA, which has labor protections in the signed agreements and did not provide dispute resolutions in the main agreement.

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 heed them, we ought to hear 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

House. And I guess he is saying that this is an agreement worthy of his vote.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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 conversation is 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 have been honored to served 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.

You start to worry when you see 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. MORAN), a distinguished Democratic Member of the House of Representatives.

Mr. MORAN 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.

□ 2045

In a perfect world it would have, 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, but surely we 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 the population cannot afford 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 should have 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 the reality.

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 stop having to export our people 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 capital to invest, to invest it 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 education, their skills, 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 descendents from the original European settlers who came there half a millenia 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 this country. If CAFTA doesn't 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 environment will not be exploited to the degree that it has been.

It is not a perfect agreement, but it is our responsibility, our duty, as far as I am concerned, 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 opportunity for the best and brightest Central Americans in 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 important to be on the right side of the political 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 be a yes vote for CAFTA.

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

Mr. Speaker, 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 contribute to sustainable human development, especially among the poorest and most vulnerable sectors; that the countries' governments take as much time as necessary to provide adequate information and foster broad debates about the contact and impact of the agreement, and that the moral measure of any trade agreement should be how it affects the lives and the dignity of poor families and vulnerable workers whose voices should receive special attention in this discussion.

Mr. Speaker, the following six pages are organizations representing religious leaders in Central America and the Dominican Republic, representing peasants, representing farmers, representing workers that all they are asking is please include us.

CENTRAL AMERICAN GROUPS OPPOSED TO CAFTA

Acción Ciudadana (Nicaragua)
Action Aid International (Guatemala)
Action Network of Citizens Against Free Trade (SINTI TECHAN)
Advising Committee of Rural Organizations of Honduras
Agrarian Platform of Guatemala
ALERTA-AMBIO (Environmental Alert)
Alexander Von Humboldt Center
Alliance for Life and Peace
Antonio Valdivieso Ecumenical Center (CAV)
Asociación de Mujeres de Occidente (Guatemala)
Asociación de Trabajadores del Campo (Nicaragua)
Asociación Hijos e Hijas del Maíz (Nicaragua)
Asociacion Servicios de Promoción Laboral (ASEPROLA)
Asociación TECUILCAN (Nicaragua)
Asociaciones de Pacientes
Association for Development and Ecology (APDE)
Association for Health and Inter-Communal Social Services in El Salvador (APSIES)
Association for the Advancement of Social Services (AVANSCO)
Association for the Promotion and Development of the Community (CEIBA)
Association of Agronomy Students of Guatemala (FEAG)
Association of Integral Development of Batan (ADIBA)
Association of Organizations of Central American Farmers for Cooperation and Development (ASOCODE)
Association of Professors of Secondary Education (APSE)
Association of Rural Communities for the Development of El Salvador (CRIPDES)
Association of Rural Organics Producers (ACAPRO)
Association of Skilled Women
Association of Social Security Employees (AESS)
Association of Women in Micro-Industries of Salamanca (AMUNTA)
Bishops' Secretariat of Central America (SEDAC)
Bloque Popular—Colomoncagua (Honduras)
Bloque Popular (Honduras)
Bloque Popular Centroamericano
Bufete 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 Consumer Defense (CDC)
Center for Legal Assistance for Indigenous Peoples
Center for Legal Attention in Human Rights (CALDH)
Center for Studies and Publication Preparation
Center for the Costa Rican Workers Movement (CMTC)
Center of Friends for Peace (CAP)
Center of Work Studies (CENTRA-El Salvador)
Central American Federation of Communal Organizations (FCOC)
Centro Civico Democrática (El Salvador)
Centro de Asistencia Legal a Pueblos Indigenas (Nicaragua)
Centro de Estudios 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)
CNOC (Guatemala)
Civil Society Conference (Costa Rica)
Colectivo de Mujeres de Matagalpa (Nicaragua)
Comisión Intersindical (El Salvador)
Comité ''Si a la Vida no a la destrucción del Medio Ambiente'' de León v 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 (CNTMC)
Committee of Costa Rican Banana Unions (COSIBACR)
Committee of National Rural Organizations
Committee of NGOs (Non-Government Organizations) and Cooperatives (CONGCOOP-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 (Nicaragua)
Confederation of Federations for Agricultural Reform of El Salvador (CONFRAS)
Confederation of Union Unification (CUS)
Confederation of Union Unity of Guatemala (CUSG)
Confederation of Workers in Honduras (CTH)
Confederation of Workers of the Countryside (CTC)
Consumers Association of Masaya (ACODEMA)
Consumers International—Regional Office for Latin America and the Caribbean (Chile)
Convergence of Movements of Peoples of America (COMPA)
Cooperativa Maquiladora Mujeres de Nueva Vida, Internacional (Nicaragua)
Cooperativa Multisectorial de Jalapa (Nicaragua)
Coordinadora de Organizaciones Indigenas y Campesinas (Guatemala)
Corporación Horticola (Costa Rica)
Costa Rica Association of Energy Producers (ACOPE)
Costa Rica Social Insurance Fund and Allied Institutions (SIPROCEMICA)
Costa Rican Confederation of Democratic Workers (CCTD)
Costa Rican Federation of Health Workers (FECTSALUD)
Costa Rican Lutheran Church (ILCO)
Costa Rican Union of Aids of Infirmary (SINAE)
Council of Development Institutions (COINDE)
Council of Research for Central American Development (CIDECA)
Democratic Civic Center
Education Corporation for Costa Rican Development (CEDECO)
El Salvadoran Center for Appropriate Technology (CESTA)
Electric Industry Union of El Salvador (SIES)
Emaus Forum (Costa Rica)
Employees Union of the National Bank (SEBANA)
Employees Union of the University of Costa Rica (SINDEU)
Encuentro Popular (Costa Rica)
Federación Nacional de Sindicatos Textil, Vestuario, Piel y Calzado (Nicaragua)
Federación Sindical de Trabajadores de los Servicios Públicos de El Salvador (FESTRASPES)
Federation of Cooperative Associations for Agricultural Production—FEDECOOPADES (El Salvador)
Federation of Cooperative Associations of Fishing Craftsmen of El Salvador
Federation of Farming Cooperatives of El Salvador (FEDECOPADES)
Feminine Group for the Betterment of Families (GRUFEPROFAM)
Foro de la Mujer Región II (Guatemala)
Foro de la Sociedad Civil (Nicaragua)
Foundation for the Cooperation and Communal 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 (CEOCO)
General Workers Confederation (CGT)
Global Conference of Guatemala
Green Tropics
Grupo de Solidaridad—El Arenal (Nicaragua)
Hemispheric Consumer Task Force on the FTAA (Chile)
Honduran Confederation of Cooperatives
Independent Federation of Salvadoran Micro Enterprises (FIMES—El Salvador)

Independent Monitoring Group of El Salvador (GMIES)
Indigenous Movement and Mesoamerican Farmer (MOICAM)
Indigenous Movement of Jinotega
Iniciativa CID
International Center of Political Economy for Sustainable Development (CINPE)
Inter-Union Commission
Juntas de Salud
Las Dignas (Women's Association for Dignity and Life—El Salvador)
Latin American Association of Pharmaceutical Industries (ASIFAN)
Latin American Biblical University (UBL)
Latin American Coordinator of Rural Organizations (CLOC)
Maquila Zone Federation
Melida Anaya Montes Women's Movement (MAM)
Mennonite Central Committee (Nicaragua)
Mesa Global de Guatemala
Mesa Laboral de Sindicatos de la Maquila (Nicaragua)
Mesoamerican Institute of Permanent Culture (IMAP)
Mesoamerican Peoples Forum
Movimiento Ambientalista Mesoamericano (Nicaragua)
Movimiento Ciudadano por la Vida con Justicia Social (El Salvador)
Movimiento Ciudadano por un Proyecto de Nación (Nicaragua)
Movimiento Comunal de Nicaragua
Movimiento de Activación Social Alternativo-Estelí (Nicaragua)
Movimiento Sobrevivencia Local (Nicaragua)
Movimiento Social Nicaragüense (Nicaragua)
Mother Jungle
Municipal Committee for Sister City Projects of Tipitapa (COMPALCIHT)
Municipal Workers' Union of the Province of Limón (SITRAMUPL)
National Advisor of Salvadoran Businesses (CONAES)
National Association for the Right of the Salvadoran Social Security Institute (ANDHISSS)
National Association of Public and Private Employees (ANEP)
National Chamber of Generic Products (CANAPROGE)
National Committee for Defense of Social Security and the Costa Rican Social Security Fund (CCSS)
National Committee of Salvadoran Women (CONAMUS)
National Committee of Popular Resistance (CNRP)
National Committee of Settlers of Marginal Areas of Guatemala (CONAPAMG)
National Committee of the Widows of Guatemala (CONAVIGUA)
National Consumer Defense Network
National Federation of Land Cooperatives and Agro-Industries (FENACOOP)
National Federation of Public Service Employees (FNTSP)
National Federation of Small Enterprises (FENAPES)
National Federation of Textile and Clothing Unions
National Foundation for Development (FUNDE—El Salvador)
National Indigenous and Rural Committee (CONIC)
National Medical Union
National Union and Popular Committee (CNSP)
National Union of Assistants of Infirmary and Public Health Related Issues (SINAESPA)
National Union of Costa Rican Small and Medium Sized Farmers (UPANACIONAL)
National Union of Employees Social Security Fund (UNDECA)
National Union of Health Workers of Guatemala (SNTSG)
National Union of Hospital Employees and Assistants (UNEHA)
National Workers Federation (FNT)
National Workers Union of Apprentices (SITRAINA)
Nejapa Foundation
Network of Alternative Community Commercialization (Red COMAL)
Nicaraguan Communal Movement (MCN)
Norma Virgtinia Guirola de Herrera Center for Women's Studies (CEMUJER)
Organization of Salvadoran Women for Peace (ORMUSA)
Pastoral Juvenil (Nicaragua)
Plataforma Contra el Libre Comerico—COMPA (Costa Rica)
Popular Block
Pueblo Indígena de Chorotega (Nicaragua)
Pueblo Indígena de Telpaneca (Nicaragua)
Red COMAL (Honduras)
Red Mexicana de Acción frente al Libre Comercio (México)
Red Nacioinal de Defensa de los Consumidores (Nicaragua)
Red Sinti—Techan (El Salvador)
Renum Novarum Confederation of Democratic Workers (CTRN)
Rural Way—Association of Rural Workers
Salvadoran Foundation for Peace and Development (FUNDASPAD)
Salvadoran Foundation for the Promotion of Social and Economic Development (FUNSALPRODES)
Salvadoran Social Security Institution Workers Union (STISSS)
Salvadoran Women's Movement (MSM)
Sandinista Workers Confederation (CST)
SHARE Foundation
Sindicato de Empresa de Trabajadores del ANDA (El Salvador)
Sindicato de Trabajadores de la Lotería Nacional de Beneficencia (El Salvador)
Sindicato de Trabajadores del Fondo Social para la Vivienda (El Salvador)
Sindicato de Trabajadores del Instituto Salvadoreño del Serguro Social (El Salvador)
Sindicato de Trabajadores del Sector Eléctrico (El Salvador)
Sindicato de Trabajadores por Establecimiento del Aeropuerto Internacional de El Salvador
Sindicato de Unidad de Trabajadores de la Empresa de Telecomunicaciones de El Salvador
Sindicato Nacional de Trabajadores de Industria de Transporte, Similares, y Conexos (El Salvador)
Solidarity Fund for the Benefit of Social Groups (FOSBAS)
Syndicated Organizations of the Health Sector (FOSSS)
Telecommunications Workers Union of El Salvador (SUTTEL)
Trópico Verde (Guatemala)
Tzu Kim Popular Movement
Unidad Ecologica Salvadoreña—UNES (El Salvador)
Unidad Ecológica Salvadoreña (El Salvador)
Unified Workers Union of the Municipality of Pococí (SUTRAM)
Unión Nacional de Pequeños Agricultores (Nicaragua)
Union of Assistants of the Health Sector (SINASS)
Union of Engineers and Professionals of ICE, RASCA & CNFL (SIICE)
Union of Health Workers (SITRASALUD)
Union of Hospital Workers of San Juan de Dios (SITHOSAJUDI)
Union of Industry Workers in the Electrical Sector (STSEL)
Union of the Tourism Industry and Hostelry (STITHS)
United Federation of Workers of General Foodstuffs and Agro-Industry (FESTRAS)
Unity Confederation of Workers of Honduras (CUTH)
Western Civic Committee
Woman and the Community
Women and Economy of El Salvador (REMTE)
Women of Mama Maquin of Guatemala
Workers Union of the Social Fund for Housing (SITRAFOSVI)
Workers' Union of the National University (SITUN)
Young Christian Workers

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. COBLE. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL).

Mr. Speaker, weeks ago I said that CAFTA was neither as good nor as bad as its respective proponents contend. At that time I also said whether I vote for or against CAFTA, 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 CAFTA, 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 know virtually nothing about CAFTA, 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 inevitably. I have talked to the gentleman from Florida (Mr. SHAW) about it. Some people are going to be hurt, some people are going to benefit, not unlike other trade agreements that have come before us on this floor in years previous.

I usually vote against trade agreements. Tonight will be no exception, and I will do so.

I thank the gentleman from New York (Mr. RANGEL) for having yielded me time.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Speaker, I ask you to join me in supporting the best interests of our Nation by passing DR–CAFTA. I support CAFTA because it is deeply in our national interest, and it is a progrowth, projob vote.

In the past I have seen the way free trade has revolutionized south Texas, bringing jobs, prosperity and growth to a part of the country that used to be economically underserved. DR–CAFTA will perpetuate that growth, opening export markets to our American farmers and businesses, thereby creating

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 new 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 for the better.

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 just did not vote for, but he 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 misses an historic opportunity. It fails a key growing challenge to globalization to expand trade so that its benefits are widely shared. Trade agreements must level 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, 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 nations' 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 bad they make them 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.

□ 2100

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 classes 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 insecurity, not security. A denial 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 challenge of globalization. And that challenge is to shape a trade agreement so that it spreads more broadly the benefits of 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 in 1990 by a voice vote. 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 H.R. 3045, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (DR–CAFTA). This important Agreement ensures the spread of fair and open markets for American goods and services. I want to commend the Bush administration, the majority leader, and my good friends on the Committee on Ways and Means for bringing this important legislation before the House.

The provisions in DR–CAFTA go beyond the mere dissolution of tariffs. This wide-ranging Agreement sets forth detailed requirements to eliminate the non-tariff trade barriers erected by the member countries. Often more nefarious than traditional protectionist measures, these barriers now constitute the principle impediment to achieving free and unfettered foreign commerce.

The elimination of all trade barriers to foreign commerce has long been a goal of the Committee on Energy and Commerce. So I want to express my great satisfaction that DR–CAFTA contains numerous chapters resolving potential non- tariff trade barriers.

Chapter 6 addresses each country's ability to promulgate needed sanitary measures. It is very important that our countries cooperate closely, and assist one another in protecting human, animal, and plant health. Plant- and animal-borne pests and diseases, including toxins and disease-causing organisms, must be carefully controlled, and the reaffirmation of WTO rules in this area strengthens the Agreement in a significant way.

Chapter 13 and 14 focus on telecommunications and E-commerce. These are some of the most important pieces of the Agreement before us. They promote, instead of hamper, growth in these areas. Chapter 13 ensures non-discriminatory access to public telecommunications networks in the Member countries, and requires the signatories to regulate their dominant telecommunications suppliers in ways that will ensure a level playing field for new market entrants; deregulation and technological neutrality are the key goals. Costa Rica is of particular note because of its government-provided telecom services, and the Agreement has special requirements for this country to open its market to American competition. Additionally, Chapter 14 builds on these goals by prohibiting discriminatory regulation of electronic trade. This chapter represents a major advance over previous international arrangements with regard to E-commerce.

The protection of Intellectual Property, IP, rights must be a part of any Free Trade Agreement, FTA, and Chapter 15 complements and enhances existing international standards in this area. It requires the Parties to ratify or accede to several existing agreements on IP rights, including two significant World Intellectual Property Organization

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 environmental 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 their laws provide 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.

Finally—and aside from the actual text of the Agreement—this 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, but nascent democracies of the DR–CAFTA countries 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. LEWIS of Kentucky. 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 are the second largest U.S. market 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 80 percent of U.S. 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 made in the region will be sewn from 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 2½ 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 those 200,000 North Carolinians 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. It does not work. CAFTA is NAFTA's ugly cousin. In fact, 85 percent of what is in the CAFTA bill is in the NAFTA bill. It is a cousin that is not very attractive at all.

Mr. Speaker, let me share with you and those on the floor tonight that I received a letter written to every Member of Congress from seven legislators, seven legislators from El Salvador, Nicaragua, Guatemala, and Honduras. Seven of these representatives, elected like we are by the people of those countries to speak out, have said that the CAFTA market has fewer than 9.2 million people who can buy U.S. goods. They say that this should be defeated.

Just a couple more points, Mr. Speaker. I want to quote from this letter: ''Our countries want trade, but trade agreements like CAFTA that limit the possibilities for our countries to enact policies that will truly develop our economies and improve the lives of our people.'' This CAFTA bill will not help the people in Central America and will not help them in this great Nation of America.

I want to take one more moment, and then I will close. I think how sad it is that we have lost so many manufacturing jobs in this country. How can a Nation remain strong without a strong manufacturing base? I want to close by putting this out on the floor. How sad would it be if 15 years from now we have to order our tanks and planes from China, and then drape the coffins of our heroes who have died from this country with flags that say ''Made in China,'' or ''Made in Honduras.''

Let us defeat this evil bill called CAFTA.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), a distinguished member of the Committee on Ways and Means.

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

I was actually here when NAFTA was passed, and I voted for it. And I represented northeast Georgia, where all the textile mills closed over the next 10 years. When we voted on NAFTA, the unemployment rate was 6.0 in Georgia, and 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 increasingly friendly 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 products. 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 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 had come from some foreign galaxy and landed 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 told 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.

Mr. Speaker, I rise in strong opposition to the 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 the Africa Growth and Opportunity Bill and who has worked on every trade agreement 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 marvelous 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 $85 million 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 come up here and get into this 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 protections, no guarantees 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 me tell you 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 trade agreement with the 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 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 rise in support of the American worker 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 vitally important, but it has to be fair trade and CAFTA does not measure 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 because they had not earned 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 would not help Central America much and will harm America a lot.

The omissions are glaring in CAFTA—chief among them: environmental protection, worker rights, and fair policies that could benefit every American business, not just a few.

As the largest market in the world, United States international trade policy should be leading the world, not following special interests, which have only their own interests in mind. But that is not the case in CAFTA, which retains protectionist trade policies 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 jobs 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 need an honest trade agreement that represents 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 the Muslim people of Morocco, the sub-Saharan nations of South Africa, our Asian allies in Singapore, and Arab 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

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 compete and win against the surge of China's imports.

□ 2115

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 suggest, we ought to 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 a little 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 said, you come 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 have been one 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 Founding Fathers 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 tonight. 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 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. 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 fierce 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 allowed them to receive favored-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, but this time that kind of distorted competition will live and breathe in our neighboring Central American countries, not 6,000 miles away. Will the Central America 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, and 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. I recognize the importance of trade 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 some points 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.

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 as we have opened up ours to them. 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.

Look at what it does 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 goes to zero tomorrow.

Manufacturing goods, most of our products in the State of Wisconsin that are exported is our manufacturing sector. This takes those manufacturing 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 heard 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 that 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 fledgling 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 in strong 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 have done something over 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 bothers me a lot, and that has to do with the Codex Alimentarius. These are rules and regulations written by the WTO, accepted by the European community, and it is specifically mentioned in this bill in chapter 6, paragraph number 6, and 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 nutrition 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 certainly within the bounds of the Constitution.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

□ 2130

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 when we saw the Contras and the Sandinistas fighting and the bodies in the streets of Nicaragua, Managua? Do you remember all the wrangling that went on in this 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 who illegally came into this country 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 fledgling democracies and deal with the poverty problems down there, that we are going to have more wars down there, we are going to have more civil disorder and insurrection. There are governments down there that are trying to undermine fledgling democracies with their largesse, and they are going to continue to do it. What we have to do 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 myself such time as I may consume.

The gentleman from Indiana is really so entertaining. After he got past Fidel Castro, I was ready for Osama bin Laden and Saddam Hussein. Now that you mention it, I think we ought to have a search for weapons of mass destruction. I do not know how short you are on votes, but I want the gentleman to know, I appreciate his edification of how serious it can be. The Communists can come back.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. 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 is arguably the most important TAA component, as education and learning new skills is essential to finding a new job.

During the Ways and Means Committee markup, I introduced an amendment that addressed that problem in order to keep up with worker demand. Unfortunately, that amendment was rejected. Additionally, during CAFTA 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. Even a provision that Chairman 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.

So I ask, where is the commitment to the American worker in the CAFTA bill? NAFTA, CAFTA, SHAFTA for American workers.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in support of this trade agreement. This has enormous upside potential for financial services. As chairman of the Financial Services Committee, we have studied this issue at great length. The opportunity for American financial services companies to provide services in the DR–CAFTA region is truly a unique opportunity for those companies. We would be foolhardy if we were to ignore the opportunity for a two-way street in providing those financial services.

Let us review the bidding. The Caribbean Basin Initiative essentially was a one-way street. That is going to expire. This is an opportunity for American companies, financial services, manufacturers, farmers, to be able to introduce their products to these markets. Currently over 80 percent of the exports that come in from the Caribbean countries come in duty free in this country, unlike some of the rules that restrict our ability to do that in that region.

This is a huge opportunity for my home State of Ohio, whether it be manufacturing or whether it be agriculture. It is easy to talk about job losses, but the idea is to actually improve the opportunity to expand exports into these countries. This Congress time and time again has approved free trade agreements, with Australia, with Chile, with Morocco and other countries, on a large bipartisan majority. Why would we ignore the opportunity in our own backyard to improve the markets and to improve the ability of our exporters to penetrate those markets when we are doing the same for other countries throughout the globe? This is an incredibly important statement. Let us support this free trade agreement and move on.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), an outstanding member of the Committee on Ways and Means.

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 countries 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 our 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 people without jobs and without 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 stands 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 anti-democratic 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. Certainly 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. JONES), 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 gentleman from Maryland (Mr. 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. A special 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.

□ 2145

CAFTA faces broad and deep opposition because it was crafted by a select few for a select few. More than 200,000 Central Americans 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, but 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 they 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 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 every person 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 riddled 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 prosperous future. Not only will it 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 help us achieve that commitment.

(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 worked hard and became a Member of this body.

Mr. Speaker, I yield 2½ 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 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 by saying 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 need to go back to the table. We need 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 encampment 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. Also, the enforcement provisions are within the trade bill itself.

Mr. Speaker, I yield 1½ 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 three specific 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 some 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. It is possible to have a modern 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. KNOLLENBERG).

Mr. KNOLLENBERG. 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, about 5 years ago, 309 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 for America.

By the way, I have those results, if anybody is interested, of the vote 5 years ago.

□ 2200

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, it did; 1 million more lost U.S. jobs, 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 abominable, as the gentlewoman from California (Ms. SOLIS) has so well documented tonight. Sweatshops rule the day.

CAFTA will fuel more such trade deficits as with Mexico, more illegal immigration as people, desperate, try to find some type of refuge north. We know illegal immigration has doubled just since NAFTA passed. We know CAFTA will increase drug trafficking, sexual harassment of women in the workplace. Environmental conditions will worsen. CAFTA will keep Central American workers in sweatshop conditions by rolling back enforcement provisions of the Caribean Basin Initiative, CBI. Indeed, the administration has cut the U.S. contribution to the International Labor Organization for child labor enforcement by 87 percent. What kind of commitment is that?

CAFTA will regress democratic reform in the countries where our Central American neighbors live.

Your conscience should not allow you to vote for this flawed approach that will bring lower wages and benefits, exploitation and hardship to individuals in our country and our sister nations, where full liberties do not exist. Our policy should be free trade among free people.

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 pushes 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 Basin. Worse, we will open the door for the Venezualan-Cuban alliance to fill the vacuum created by our failure to construct an economic 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 Students Festival is going to meet in Caracas, 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 of the progressive 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 who believes an 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 cruelest 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 defeat 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 cannot stand by the dignity of their women. And what a strange and bizarre world if we think we stand 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 capacity to help remake 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 chairman of the Subcommittee on Trade 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 had a 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 spit in that very hand 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, and it is nations like the United States of America that are good neighbors. This is a good neighbor trade agreement. Neighbors help 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, when you get up in the morning, you can go looking for reasons to not 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 allows us 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 the right thing.

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 grandmama 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 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 be 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. SHAW), how do we answer that 11-year-old granddaughter in Crossville, Tennessee?

I will vote ''no'' on CAFTA this evening.

Mr. SHAW. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a distinguished member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, this is how 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.

For 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 Moroccan 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?

Now, they have written the plan. You can see whether they will have implemented the plan, because it is laid out, how many inspectors, and so on and so forth. It is all detailed. They will be accountable for implementing those plans.

Those Presidents whom we met with were proud that they are upgrading their labor law and upgrading their enforcement. This is capacity-building. The very first Free Trade Agreement or trade agreement that focuses on capacity-building, building the ability of departments of labors within these governments to enforce domestic labor law which meets international labor standards, and the International Labor Organization is going to be there to oversee it, and we are putting money behind it. We are, and others are.

This is a unique labor agreement. It really, really pains me that there is so much ignorance about the details of this agreement. You sit with the people who negotiate an agreement, you sit with the economic ministers, you sit with the Presidents, and you get a concrete, tactical sense of the tremendous strides they have made through the agreement to improve new labor laws and enforcement capacity. This is not status quo; this is going to change their world and protect their workers.

□ 2215

Now, if in addition you care about fair trade, and you want to walk the walk of fair trade and not just talk the talk, then you better remember, their goods come in, no tariffs, no duties, no nothing into our country.

Do you not think our guys deserve the same right? To me that is fair trade. Level the playing field. Our products should have the same access their products have. And their people deserve the same respect our people do. They do not deserve a double standard.

Mr. RANGEL. Mr. Speaker, 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 for people to 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 talking the 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 DR-CAFTA 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 made the phone calls into 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.

That is because there are very high tariffs on our products going into Central America. Right now Central American countries have very little, if any, barrier getting their products into the United States. It has been that way for 20 years. But one of the best ways we can help move them forward is to get our products into Central America.

Partially because a lot of their industrial development needs to be advanced, and we have the products to help them do that. How to raise their standard of living? Certainly raise their quality of manufacturing. Raise their opportunity to sell quality goods, give us the opportunity to help them do that.

Interestingly enough, the arguments we hear do not seem to make any sense; they are very circular. We have to oppose this because we will hurt Central Americans, but we have to oppose this because we will hurt Americans. Neither of those arguments holds water.

This agreement is good for Central America, it is good for the United States manufacturing, and I urge my colleagues to support it.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, tonight we stand on the precipice of doing something great for America. And I think we ought to pause for a moment and ask the question: What would the American people want us to do here tonight?

Well, I am here to tell you what I think the American people want us to do. The American people who are watching television tonight, they are hoping with their fingers crossed that finally, finally the Congress will stand up for America.

We stood up for Morocco, we stood up for Singapore, we stood up for China, for India. Now we are about to stand up for the nations in Central America. America is saying, when are you going to stand up for us, the workers, the backbone of America?

This CAFTA is fraught with weaknesses in terms of labor rights all throughout. Ever since we have had our trade agreements, just over the past 10 years we have lost 3 million jobs, manufacturing jobs. We have lost 2½ million jobs to China, to India in servicing.

I say to you tonight, stand up for America and America will be very thankful and very proud that we did. Vote ''no'' on CAFTA. Let us send it back, and let us fix it.

Trade agreements must benefit both workers and corporations. CAFTA benefits corporations but does not benefit workers. CAFTA fails to include adequate protections for workers. In fact, the U.S. State Department has documented numerous areas where CAFTA countries failed to comply with even the most basic minimum labor standards and worker's rights.

CAFTA will cost American jobs and this is the Achilles' heal in our approach to trade agreements which I find most disturbing. Were sending millions of jobs overseas and manufacturing plants are closing in America because of our trade policies. In the *last 10 years, we have lost 3* million manufacturing jobs and nearly 1 million financial services and call center jobs to China and especially, India because of our trade agreements.

CHINA & INDIA ARE EATING OUR LUNCH

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 lossing 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.

Finallty, we need to ask ourselves how the American people want us to vote on CAFTA tonight. All over the country, they are watching us to see what Congress is going to do. I am there to tall you that the people of America wants 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 got 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 morning. 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.

Three 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 fail 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 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., 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. Cheap labor.

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 textiles, used to make machine 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 to the American manufacturing worker. Trade without equity is tyranny. Trade without economic justice is theft. Trade without integrity, without workers' rights, without human rights, without environmental principles is not worthy of a free people.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. MICHAUD).

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 dad worked at 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 loss is something that we 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.

CAFTA 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.

I ask 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).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, there are many reasons to oppose the CAFTA–DR deal. But I want to talk about one reason that has not gotten much attention, the inclusion of tobacco products.

Mr. Speaker, tobacco is a unique commodity, killing millions of people around the globe each year. Trade agreements are supposed to benefit consumers by spurring competition and reducing prices for beneficial products such as wheat, computers, and auto ports.

While increased trade may offer a range of benefits for exporters and importers alike, these benefits do not apply to tobacco products. Reducing tariffs on cigarettes, other tobacco products, or removing public health measures that may run afoul of trade agreement's rules on non-tariff barriers is going to result in increased smoking rates, needless preventable deaths, and disease. That is a fact.

Tobacco products were excluded from the tariff schedules in the U.S.-Jordan and U.S.-Vietnam free trade agreements negotiated under the Clinton administration.

□ 2230

This administration has done an about-face including tobacco products in the U.S.-Chile agreement at the behest of Philip Morris. This unfortunate turn of events should not be repeated. I urge my colleagues to reject the CAFTA-DR trade agreement. It is bad for workers, it is bad for the environment, and with the inclusion of tobacco products, it is bad for health.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

We have talked about a lot of different issues tonight. Let me tell you what it is all about, how it hit home with me. Stephen Felker, Avondale Mills, Graniteville, South Carolina, textile manufacturer, asked me to coming 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 a 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 gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Almost 2.8 million American manufacturing jobs have been lost since President Bush took office in 2001. These were good jobs with good wages, and they have been shipped overseas to countries with cheap labor. CAFTA will export even more American jobs, but it will do nothing to improve wages and living conditions in Central America.

CAFTA is not about free trade at all. It is an outsourcing agreement. It allows profit-hungry corporations to ship American jobs to impoverished countries where workers can be forced to work long hours for little pay and no benefits. It is a bad deal for Central American workers, and it is an equally bad deal for workers here in the United States.

I ask my colleagues who are thinking of voting in favor of CAFTA, how will you tell poor workers in Central America who are trying to organize labor unions and demand living wages that you voted for this agreement which does not require their governments to respect human rights or comply with international labor standards? How will you go home to your constituents and tell them you voted to export their jobs overseas? How will you tell working families in your district that you care more about corporate profits than workers wages?

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 depopulated 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, they pay themselves a fine. Come on now. 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 gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, 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 specific language in here that talks about the language of labor laws that would protect the children from these dumps.

I say to you out of 3,000 pages, do you not think America deserves one line protecting their jobs? Do not you 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, social, and political ties with 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 manufacturing industries.

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 Americans 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 Untied 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 improved working conditions in Mexico 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 we 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 lower 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 indept poverty. I have been to Honduras and Guatemala and have seen the pain and suffering of the masses. In Guatemala, over 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 (knee-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 home—one laden with disease and 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 rape and 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 concerns me most is the use of 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 will be our beast of 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 the bottom line then the bottom of society. Foreign governments are often far too eager to invite these companies into their nations. This is not the best manner to help fight poverty in the 3rd world. In order to fight poverty, we must insist on the resources used to protect the poor, not exploit them. We must insist on better labor and environmental standards in order to ensure that the poor also benefit from free trade agreements. Fair trade should be our paramount concern.

Supporters of the bill have claimed that its passage is imperative for Central America and will be mutually beneficial to all parties. They also argue that since 80 percent of goods from the DR-CAFTA countries already enter the United States duty free as a result of the Caribbean Basin Initiative and on that basis we have no reason to fear job exportation to the region. They argue that if job exportation was to happen, it would have occurred all ready. Yet, they also argue that passage of the DR-CAFTA is imperative for Central American economies to succeed. It seems to me that while they use the 80 percent duty free number to quell fears of job exportation, they somehow forget it when they talk of the necessity of the agreement for Central America's economies. If the DR-CAFTA countries already import 80 percent of their goods duty free then they have already received most of the benefits of a free trade agreement!

I am not opposed to allowing Central American nations to import many of their goods duty free. I believe that this number, 80 percent duty free importation, is a good number because it was designed to help alleviate poverty in the region. It has succeeded in doing so. Central America is far better off today then it was 20 years ago. Yet, this duty free access also means that it is not imperative for the US to pass this legislation. Since these countries already import 80 percent of goods duty free, the remaining 20 percent will not have such a dramatic effect. The USTR should have taken the success of the Caribbean Basin Initiative and used it to negotiate a fair and balanced trade agreement. Clearly, passage of this bill is not imperative to the economic well-being of Central America. So why were the USTR and the Bush administration so hasty in forcing execution and enactment of this agreement? Because of the success of the Caribbean Basin Initiative, we have the leeway to send this agreement back to the Bush Administration and ask that it not return until it has an agreement that genuinely benefits the poor and marginalized sectors of society both here in the United States and in Central America and the Dominican Republic.

The DR-CAFTA is not a fair trade agreement. It is a mechanism to support business interests in the United States and Central America. In the United States, we have sufficient labor standards to accommodate business interests. Over the past 200 years, the labor movement in this country has fought diligently to provide us with these protections. In Central America, these safeguards exist on paper, but not in practice. When we submit to special interests in this situation, we forfeit work protections. Therefore, we must insist that our trade agreements contain more then an expansion of business interests, they must contain provisions that expand social and justice interests. We must ensure that trade agreements benefit all of the people, men and women, young and old. This agreement fails to meet these standards and therefore should not be supported.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Chicago, Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I do not profess to know everything that CAFTA is going to do, but I do know that when I wake up in the morning, my congressional district has lost more than 150,000 good-paying manufacturing jobs. I know that we make candy. We make a lot of it. We used to be called the Candy Capital of the World. But my candy makers are leaving because the price of sugar is too high.

I was told and I was hoping that CAFTA would help reduce the price of sugar for my candy makers. It will not. Therefore, there is no reason for me to vote for CAFTA, and I shall not.

Vote no for CAFTA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am about to cast my first vote ever against a trade agreement. While this has very little impact overall in the United States economy, it is very important for the direction of our trade and economic policy. Are we going to continue to parcel out piecemeal agreements? When pushed, are we going to cut side deals and understandings like we have done of late with citrus and steel and textiles and sugar? Are we going to fail to own up to our own agriculture subsidies?

We do not do a very good job in this country anymore enforcing our own labor laws. I am no longer interested in one more suboptimal agreement. Because it has such a small impact, there is no excuse for not advancing workers and their environment at home and abroad. There is no reason to settle for this agreement, and I urge its rejection.

Mr. RANGEL. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from North Carolina (Mr. ETHERIDGE).

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

Mr. ETHERIDGE. Mr. Speaker, I have supported trade agreements that have come through this body since I have been here, but this one falls short. I stand in opposition to the legislation.

Mr. Speaker, I rise today in reluctant opposition to the implementation legislation for the Free Trade Agreement with the Dominican Republic and Central America, known as DR–CAFTA.

Throughout my service in the U.S. House, I have supported policies that encourage export promotion because exports can play an important role in strengthening our economy. But our economic policies must work to build the American middle class by investing in education, training and health care for working families as well as expanding access to new markets for our products. Our trade policies must lift living standards in other countries whose workers will compete for American jobs. If American workers are forced to compete with workers from countries without a growing standard of living, the race to the bottom will lower the economic opportunities and 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 sound 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 fails to erect 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, these workers will suffer exploitation 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. that has provided us the foundation 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. America 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 goods and services. 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 environment provisions, and DR–CAFTA should as well.

Finally, the vote on DR–CAFTA comes at a time when the Bush administration 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. And last month, the House passed an appropriations bill with devastating cuts in needed efforts for education, Trade Adjustment Assistance and other job training, and rural health care. In the global economy of the 21st century, working Americans can compete and win only if they are equipped with the tools to make the most of their God-given abilities. We need an economic policy that helps middle class families, those striving to get into the middle class and those struggling to stay in the middle class.

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 to 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.

CAFTA virtually turns back the clock on labor and environmental standards.

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 refineries, including Domino Sugar in my district in Yonkers. CAFTA 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 deadlines 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 America can do.

The richest country in the world is about to enter into a trade agreement with the poorest countries in the Western Hemisphere so that we can open up nontariff issues. They send us goods without tariffs. Yes, we do not grow bananas in the United States or guanabana or platano, but we want to send them our goods so that people who are earning $2 a day can buy Two Buck Chuck.

Come on. America, can do better. You cannot have fair trade until you have basic aid. You cannot have a middle class without having schools and water and sewers. There is nothing in here; even the Millennium Fund that the President introduced, a good program, underfunded it to these countries.

You have got to build up countries so that they have a faith in themselves before they have the opportunity for a middle class. We can do better, America. Congress, put this over. Vote against it.

Mr. SHAW. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I have been listening to particularly the last few people who have gotten up, and they talk about how they support free trade, but they 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 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.

□ 2245

If you get a pair of blue jeans made in Honduras, it is 70 percent American content. These jobs that go to China, if those sewing factories move out and it goes to China, those same jeans are 1 percent American content. So we know that American workers, American jobs will benefit from this type of agreement. And it brings wealth into our

hemisphere. Right now, in Nicaragua, the average salary, the average pay for a worker is somewhere 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 that 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 to kick them 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 enjoyed 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 Americas 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 products. Independent studies indicate that U.S. incomes will rise by over $15 billion and those in Central America by some $5 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 on 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 in Central America and the Caribbean. During my presidency and now at The Carter Center, I have been dedicated to the promotion or democracy and stability in the region. From 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 each of the 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 competition with U.S. firms. They have put 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, 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 chance to reinforce democracies in the region. This is the moment to move forward and to help those leaders that want to modernize and humanize their countries. Moreover, strong economies 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,
New York, February, 2005.

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 the region and as a contributor to long-term potential and strategic cooperation between the United States and some of its closest 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 and as 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 RAMER,
Chair,
Latino and Latin American Institute.

B'NAI B'RITH INTERNATIONAL,
Washington, DC, July 27, 2005.

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. As 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 recognizes the significance of the decision by Costa Rica and El Salvador to maintain embassies in Jerusalem; they are the only two countries in the wodd 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 ask that you encourage 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. MARIASCHIN,
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 distort 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 gentlewoman from California (Ms. 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, and who 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 Members, and 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 sought sanctuary from El 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 this in 1961 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 agreement that opened markets, 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 support from a large number 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 have heard our colleague earlier, 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 too, 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, side letters, and side deals. They 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 substandard wages in Central America or 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 of this 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 common decency and fairness. The CAFTA we are debating today fails to promote these basic measures of decency and fairness and, in fact, takes a step backward from current law because it removes the requirement from these countries to abide by the workers' 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 core 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, including our own, 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 enforcement 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.

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 way it has been pursued 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 larger markets and 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 protect the 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. SHAW. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means.

□ 2300

Mr. THOMAS. Mr. Speaker, I wondered 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 it is addressed 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 will convey very strongly to all wavering 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. We 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 in this country.

Please, those freely elected Presidents came to us and said, help us. We 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 fact, more than two-thirds of this $1 billion a 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 and excellent intentions of our trade 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, in spite of the Trade Promotion Authority 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 us little or no 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 sort of ineffective policy. I am reminded of 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 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 ''nay'' 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 with 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 businessmen 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 or CAFTA. This trade agreement will eliminate 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 this flawed agreement 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, I believe free trade agreements should place human and labor rights and the protection of the environment on an equal par with the rights of capital. While CAFTA provides extensive 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 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. The commitment to enforce domestic 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 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 living in the packing crates of the products that they were manufacturing. The poverty rates and disparities in wealth in Mexico have actually grown since NAFTA. CAFTA would just spread those conditions further south by offering multinational corporations new opportunities to profit off the backs of low-wage workers.

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, CAFTA countries receive duty-free treatment on 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 emergence of major exporters 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 decades during the cold war, 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 revving up 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 native 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 continue our country down the path of even 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 on all levels. 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 and 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 possibility in developing countries, but DR–CAFTA puts profits over people and sacrifices access to medication to drug industry greed.

Experts estimate that in some DR–CAFTA countries, drug costs could increase as much as 800 times.

People will be dying in order to promote the profits of the pharmaceutical industry. It is morally outrageous, and it sets a horrible precedent for future trade agreements.

DR–CAFTA is an absolute failure on every count. We have all learned from 10 years of failed NAFTA policies, and we cannot and we must not repeat those mistakes.

The administration needs to go back to the table and develop a trade agreement that reduces our trade deficit, upholds labor and environmental standards and protects the access to lifesaving medicines for those who need them most.

This bill must be defeated. I urge a ''no'' vote.

Mr. MEEHAN. Mr. Speaker, I have long believed that as a matter of principle we should try to take down barriers that divide economies and people. Under the right conditions, trade between countries can create American jobs and raise standards of living both at home and abroad. But globalization is a developing issue and our policies need to reflect developments in our economy and the economies of our trading partners.

When seeking new markets for our products and services, we need to ensure that we are competing on a level playing field. We must work to ensure that our trade agreements are not only free, but also fair.

Tonight I will cast my vote against the Central American Free Trade Agreement because it is not free and fair trade.

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 no longer attracting private foreign capital.

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 output 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.

Time and time again, the Bush Administration has failed to take the necessary 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 CAFTA, the Bush Administration simply ignored the request.

This indifference to the needs 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

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 and foremost, 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 democracies of the DR–CAFTA nations, we risk a return to the instability, leftist insurgencies, and Marxist leadership of the 1980's. Our worldwide anti-terrorist 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 these six nations, or stem the flow of illegal immigration to the U.S., or reverse China's dominance in textiles and apparel, should vote for this agreement. It is expected to create 300,000 jobs in these industries in the DR–CAFTA nations, while creating new demand for U.S.-sourced inputs—not raw materials from China. Upon enactment, more than 90 percent of all 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. SPRATT. 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 are part of the Carribean Basin and already enjoy wide-open access to our markets by virtue of tariff Item 807, the Generalized System of Preferences, the Carribean Basin Trade Partnership Agreement, and the Uruguay Round of GATT, which has removed all quotas on textile/apparel imports. Far from being disadvantaged, 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., they must be made from the yarn stage forward in 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 is 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 competition 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 out-of-region cotton or man-made fiber garments. These goods come into the U.S. at nominal duties. This exception represents ⅔ 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 loopholes. 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 be just 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 world-wide, using as leverage the largest emerging market in the world. The U.S. still has the largest existing market in the world. Surely in exchange for access to our markets, we can cut a better deal than CAFTA—better for our workers and theirs.

Mr. MEEK of Florida. Mr. Speaker, I am a strong supporter of trade. Since I came to Congress, 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 business will be as pronounced as proponents have claimed, and I am deeply concerned about the impact on some industries, like sugar.

Third, I believe that it is unjust to include the Dominican Republic in this trade agreement while excluding Haiti. The Administration had the opportunity to promote stability, job growth and democratic government in Haiti last year with the HERO bill, but the President was never fully committed to the legislation and the opportunity was lost.

I think it is disingenuous of the President to now claim that the passage of DR–CAFTA is essential for the growth of democracy in the hemisphere when he passed up the opportunity to help Haiti with both of these trade bills.

Mr. VAN HOLLEN. Mr. Speaker, today, after much deliberation, I decided to cast my vote against the Central American Free Trade Agreement. After careful review, I have concluded that the benefits of CAFTA are likely to flow to a few powerful economic special interests at the expense of working men and women in the United States and Central America. It is my hope that a 'no vote' will encourage the President to go back and re-negotiate the labor and environmental provisions of CAFTA so that everyone, not just a few special interests, will experience the rewards of free trade.

The Bush Administration offered as one of its reasons for negotiating this agreement that the growing economic prosperity in Central America as a result of CAFTA would pull Central Americans up from poverty to become enthusiastic consumers of American goods. But by not sufficiently addressing the issue of weak labor protections throughout Central America, the Bush Administration neglected an important tool that could help make this dream a reality.

According to the Administration, CAFTA adequately addressed labor concerns by requiring that each country enforce its own labor laws. Ordinarily, I would not object to this.

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 while researching the human rights records of CAFTA countries.

I was disheartened to learn that while the constitutions of each CAFTA country provides 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 discourage 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 the 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 United States. This hardly seems 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 opportunities to reconsider and re-negotiate its provisions—including its labor provisions. That creates a mechanism where, over time, we can press for improved labor conditions. But the labor provisions in CAFTA would preempt the CBI process. Once passed, CAFTA can only be changed if each individual country agrees to the change.

Over the years, unions have helped bring scores of Americans into the middle class. Unions helped shield workers from retribution as they sought a fair wage and better benefits for themselves and their families. Given the increased opportunity for trade that CAFTA will bring about, Central American workers deserve the chance to enjoy some of the benefits.

The debate on CAFTA has been long and spirited. Along the way, critics have had time to clearly annunciate their objections. The Bush Administration heard and responded to concerns about textiles and even re-opened negotiations on the issue. Why can't the same be done for labor rights?

Mr. President, many of the flaws in the agreement with respect to labor rights also apply to its environmental provisions. The enforcement mechanisms are weak.

I have therefore concluded that CAFTA is a missed opportunity. Without adequate mechanisms to enforce labor and environmental standards it will trigger a race to the bottom—a race for certain special economic interests to exploit lax labor and environmental protections. The result will be substantial benefits for a few at the expense of many. We can do better. We must do better.

Mr. President, Americans and Central Americans deserve a chance to have their concerns about this agreement addressed—please renegotiate CAFTA.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to H.R. 3045, the Central American Free Trade Agreement (CAFTA). I am a supporter of trade when it is used to help lift developing countries out of poverty and when it provides jobs with fair wages and protections. However, as negotiated, the CAFTA fails on both counts.

On May 15, 2003, I joined colleagues of the Congressional Hispanic Caucus in sending a letter to U.S. Trade Representative Robert Zoellick regarding concerns we had about the direction the Administration was taking during its negotiations of the Central American Free Trade Agreement. As a signatory to that letter, I urged Ambassador Zoellick to negotiate to strengthen the enforcement of internationally recognized labor rights, such as freedom of association, the right to organize, and to bargain collectively. I regret that U.S. negotiators ignored this critical request and finalized the CAFTA without strong and clear language that would hold the CAFTA countries accountable to such internationally recognized core labor rights.

There are many other concerns I have with the trade agreement that is before us. For example, I am troubled by the fact that the CAFTA does not adhere to the provisions of the 2002 Trade Promotion Authority, which requires that new U.S. trade agreements not provide greater legal rights to foreign investors than to U.S. investors. Under CAFTA, foreign investors have the right to challenge U.S. laws and regulations if they believe the law negatively impacts their ability to conduct trade. As a result, a foreign investor can seek financial compensation from the U.S. by going through an international arbitration panel. Congress was clear in its opposition to this continued foreign investor overreach of power, and it is disturbing that the Administration has not done a better job of protecting U.S. interests.

In addition, I oppose the provisions of this agreement which would impede access to safe and affordable prescription drugs for patients throughout Central America and the Dominican Republic. Specifically, CAFTA would block governments from approving the sale of generic drugs for at least five years after a new drug is introduced in each market, even if the drug's patent has already expired. The agreement would also block the approval of generics unless drug regulators can prove that the drug's patent has expired. These obligations create additional burdens on CAFTA countries that need to focus their limited resources on monitoring the safety and efficacy of their pharmaceutical products. Furthermore, it is unconscionable that we would place the financial interest of large multicultural drug companies above the health needs of families in developing countries.

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 leads to 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 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 Republic 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 illegal 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 the global 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 as important as producing 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 US-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 (NAFTA), a full eight hours of debate was allowed. This is how the House 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 availably 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 that we must 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 fast-track 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 before us today. 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 not only helps the American economy, it also can provide real opportunity to those in the developing world who are working to eradicate poverty, build their nations and bring prosperity to their people.

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, the Dominican 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 opportunities through trade, we must be sure to do more to empower the American workforce through a comprehensive and upgraded education and worker 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 with technology, which levels 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 offer 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 will spur job losses, depress American wages, eviscerate laborer's rights, emasculate the environment, and contribute to our nation's deficit.

Recent statistics from the Labor Department indicate that America has lost more than 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 workers a fraction of U.S. hourly wages that range from $14 to almost $18. Each time we pass another trade agreement, their worst fears are realized.

According to the United Nations International Labor Organization (ILO), the average hourly wage earner in Nicaragua makes 95 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 prospects posed by CAFTA, we need only 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 a 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 proceedings 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, consumers and laborers in Central America will not be able to afford American manufactured goods. They will, however, be able to manufacture goods in Central America that will be sold in America with a profit margin that could not be realized if the same item were manufactured domestically.

Mr. Speaker, I rise in strong opposition to HR 3045, the Central American Free Trade Agreement (CAFTA). Passage of this bill will accelerate job losses, contribute to our deficit, circumvent labor rights and contribute to global environmental degradation. My constituents have overwhelmingly expressed their concerns and opposition to HR 3045. I urge my colleagues in the House to defeat this measure and stand up for fair and free trade.

Mr. SALAZAR. Mr. Speaker, I came to Congress to defend the values of rural Colorado; our farming lifestyle, our ranching communities, our jobs. DR–CAFTA, the Dominican Republic-Central America Free Trade Agreement goes against those values, posing a threat to the very backbone of our economy and our lifestyle.

Trade has always been a way for cultures to exchange not only goods, but also ideas and good will. I support trade with our neighbors; it is what we should be doing to help promote democracy and economic prosperity. But just because we have a trade agreement before us does not mean it is the right agreement.

DR–CAFTA is an attempt to liberalize trade between the United States and six Latin American countries. The Administration negotiated with other foreign leaders in 2004 and today the House of Representatives will vote whether to approve the agreement. Due to Fast Track Authority, however, Congress will not have an opportunity to amend the agreement—it will merely have an up-or-down vote regardless of any concerns that may be voiced. DR–CAFTA has divided many agricultural groups among the states as well as other industries, business groups and human rights organizations.

Over the last several months, I have met with a variety of groups from Colorado and around the nation about DR–CAFTA and I am sad to report there is no consensus about how this agreement will affect our nation's economy.

The promise of new markets for agricultural exports has prompted many groups to throw their weight behind DR–CAFTA, but a deeper examination of the supposed benefits vs. the actual consequences of DR–CAFTA's enactment warrants hesitation.

Our beef industry is strong and fiercely protected in our state. According to the proponents of the deal, DR–CAFTA will open up new markets and opportunities for the U.S. beef industry. But our local ranchers and beef producers will not benefit from the agreement—DR–CAFTA will only allow duty-free access for prime and choice cuts of U.S. beef, which makes little sense when 40 percent of the people in DR–CAFTA nations make $2 a day or less.

Meanwhile, DR–CAFTA is silent on the issue of imports meeting our rigorous food safety and sanitary standards, creating a challenge to the safety of our food supply.

The Colorado Farm Bureau has publicly expressed its opposition to this agreement because 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 US. 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 American countries 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 hasn't set a good precedent, 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 only 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 who qualify for TAA benefits 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.

How will the TAA programs keep up with DR–CAFTA's fast-paced outsourcing? And why spend millions of dollars to fix the effects of a flawed trade agreement, instead of renegotiating the entire agreement? Proponents of DR–CAFTA can't seem to defend the agreement on its own merits.

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 farmers in small to medium-size operations 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 and support democracy. Economic ties with 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—no trade pact ever is—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 the competitiveness of the U.S. economy. We must exert leadership, especially in our own hemisphere.

Just 20 years ago, civil wars, communist insurgencies, and military dictatorships oppressed and destabilized much of Central America. Because conditions in Central America are critical to our national security, the

United States has actively supported these nations during the transition from insurgency and military rule to democracy. However, these new democratic governments cannot be taken for granted. Threats to their existence remain, notably from countries in South America that are suffering the effects of civil war, narcotics trafficking, and communist inspired agitation. Turning our backs on a region only recently freed from the grasp of dictatorship would diminish our international credibility and would send the wrong message to the world at a time when our troops are fighting in Afghanistan and Iraq to build stable, democratically-elected governments.

As former President Jimmy Carter said, ''For the first time ever, we have a chance to reinforce democracies in the region. This is the moment to move forward and to help those leaders who want to modernize and humanize their countries.''

Second, the market access provided by CAFTA will benefit American agriculture, which is of primary importance to those of us who care about the future of rural America and want to promote a strong rural economy. Currently, 99 percent of, agricultural products from CAFTA countries enter the United States duty free, while U.S. farm exports face significant barriers in these markets. Many of these commodities are produced in Missouri, where agricultural exports totaled $1.24 billion in 2003 and account for one-fourth of farm cash receipts.

Under CAFTA, U.S. farm products—like pork, poultry, soybeans, corn, and beef—will receive preferential access to Central American markets, giving Missouri's agricultural exports a significant economic advantage over agricultural exports from our competitors in South America, Europe, and Canada. It is projected the CAFTA could increase agricultural exports in the Show-Me State by $33 million annually once the agreement is fully implemented in 2024.

Again, no trade deal is perfect. Clearly, some improvements could be made in the bill, especially on the labor protection side. But, as I studied CAFTA and heard from national security, agriculture, labor, and business leaders, I became convinced that this trade agreement is critical to U.S. national security and to rural America.

JUNE 8, 2005.

Hon. BILL THOMAS,
Rayburn 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 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 products. Independent studies indicate that U.S. incomes will rise by over $15 billion and those in Central America by some $5 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 on the labor protection side, but, more importantly, our own national security and hemispheric influence will be enhanced with improved stability, democracy, and development in our poor, fragile neighbors in 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. From 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 each of the 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 competition with U.S. firms. They have put 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, 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 that want to modernize and humanize their countries. Moreover, strong economics 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.

Mr. BURTON of Indiana. Mr. Speaker, 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 difficult 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 though because one myth perpetuated by opponents of CAFTA has caused me great deal of concern; namely the myth that CAFTA will restrict American consumers' access to the wide range of vitamin and mineral supplements of varying potencies that are legally sold in the United States. Then there are the related myths that CAFTA will limit the amount and type of information on the labels of dietary supplements sold in the United States or even require that dietary supplements be sold as drugs.

I, along with millions of Americans, firmly believe that dietary supplements have been shown through research and historical use to be of immeasurable benefit to human health. As a regular consumer, I know firsthand the health benefits of using dietary supplements on a daily basis. Whether taking a multi-vitamin, herbal product, or specialty supplement, I know that people can and do live healthier lives and save money in long-term health costs by supplementing their diets.

Approximately 10 years ago, seeing a need for the Federal Government to address the American consumer's growing interest in dietary products and public safety, Congress overwhelmingly passed the Dietary Supplement Health and Education Act, DSHEA, to make certain that all dietary health products sold in the United States are held to the highest and safest quality standards.

This legislation ensures the safety of dietary supplements by requiring manufacturers to follow standards called ''Good Manufacturing Practices,'' or GMPs. Essentially, all ingredients in supplements sold in the United States must be previously approved by the FDA and listed on the bottle label, and distributors must follow strict guidelines on any claims that are made in regard to a particular product—to provide consumers with the most accurate information on supplements. Additionally, if at any time the FDA decides that a particular product or dietary ingredient is detrimental to human health; it reserves the right to have those items removed from the marketplace.

This legislation provides the current framework for how the Federal government ensures the safety and efficacy of dietary supplements sold in the United States, and there is no provision in CAFTA that requires the United States to change DSHEA in any way.

Nevertheless, I was so concerned about this issue that I asked the U.S. Trade Representative's, USTR, Office to clear up any misunderstanding about CAFTA and DSHEA. I would like to have the text of the USTR's fact sheet on CAFTA and Dietary Supplements placed into the CONGRESSIONAL RECORD following my statement.

CAFTA AND DIETARY SUPPLEMENTS

The CAFTA–DR will not limit consumer access to dietary supplements in any way, nor will it change the way the federal government or U.S. states regulate dietary supplements.

Chapter Six of the CAFTA–DR (Sanitary and Phytosanitary Measures—SPS), which some have claimed could limit access by American consumers to dietary supplements, does not create *any* substantive rights or obligations. It merely:

Says the seven governments do not intend the CAFTA–DR to change their existing SPS rights and obligations under the WTO.

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 committee to discuss SPS issues of mutual interest.

The SPS committee will not seek to harmonize national SPS regulations governing dietary supplements. In fact, Chapter Six does not require, recommend, or even mention harmonization.

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 Alimentarius Guidelines for Vitamin and Mineral Supplements. In fact, the agreement imposes no obligations regarding Codex standards or guidelines.

Change the Dietary Supplement Health and Education Act of 1994 (DSHEA), which regulates dietary supplements in the United States.

The Codex Guidelines provide voluntary guidance to governments relating to the composition of vitamin and mineral supplements and criteria for establishing maximum amounts of vitamins and minerals per daily portion of supplement consumed.

The Guidelines do not establish upper limits for vitamins and minerals in supplements.

Nothing in the WTO SPS Agreement will require the United States to adopt the Codex Guidelines.

Mr. FEENEY. Mr. Speaker, I rise today in support of the Central American Free Trade

Agreement, but I do so 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 irresponsible of me not to make several 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, and 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 groups have been especially critical 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 peoples' 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 plummets. Hourly workers at sugar refineries will find their jobs outsourced to other countries. These workers' and farmers' 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 workforces.

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 state 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 unrecoverable.

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 pushing this bill get it? Or maybe they just don't care.

This bill is bad for sugar beet growers and bad for Michigan.

As Pope John Paul said, let's not strengthen the powerful at the expense of the less fortunate. That is what CAFTA will do—advance the financial interests of large multinational companies at the expense of the common good.

I cannot support an agreement that fails to protect the livelihood of so many families, in Michigan, the United States, and abroad. That is why I will vote "NO" on CAFTA.

Interfaith Working Group on Trade and Investment member organizations have mission workers and partner institutions in Central America who believe that DR–CAFTA will harm their families and communities. IWG members on record as opposing CAFTA include:

American Friends Service Committee, Center of Concern, Church of the Brethren Witness/Washington Office, Church World Service, Conference of Major Superiors of Men Religious, Columban Mission Center, Columban Office: Justice, Peace and Integrity of Creation, Congregation Justice Committee: Sisters of Holy Cross, Notre Dame, IN, Congregation of St. Joseph, Cleveland, Ohio, Office of Governmental Affairs (Evangelical Lutheran Church of America), Franciscan Sisters of Allegheny, New York, Holy Cross Institute Office, Institute Justice Team: Sisters of Mercy of the Americas, International Association of the Presentations, Leadership Conference of Women Religious, Lutheran World Relief, Maryknoll Office of Global Concerns.

Mennonite Central Committee: Washington Office, Medical Mission Sisters Alliance for Justice, Missionary Oblates: Justice, Peace and Integrity of Creation, National Council of Churches USA, NETWORK: A National Catholic Social Justice Lobby, Presbyterian Church (USA Washington Office), Religious Task Force on Central America and Mexico, SHARE Foundation, Sisters of Charity of St. Augustine: Social Concerns Committee, Sisters of Charity of Cincinnati, Sisters of Humility of Mary, Sisters of Notre Dame, Notre Dame, Indiana, Sisters of Notre Dame, Justice and Peace Office, United Church of Christ Justice and Witness Ministries, United Methodist Church: General Board of Church and Society, Unitarian Universalist Association of Congregations, Witness for Peace.

Mr BACA. Mr. Speaker, I rise in oposition to this bill.

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 poverty and more hardship for 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.

Let's all keep in mind the saying, "Fool me once, shame on you. Fool me twice, shame on me."

After NAFTA, there should be no CAFTA.

When NAFTA was passed, many believed it would lead to higher wages and economic development in the U.S., Mexico and Canada and less illegal immigration.

Those hopes turned out to be false: Instead of helping American workers, NAFTA took away jobs. Instead of helping American businesses, many were forced to close down or move out of the country.

As we work hard to strengthen the American economy, we cannot afford a bad trade bill that is unfair to American workers.

CAFTA does not hold companies in other countries to the same standards. Workers in those countries do not have the same rights or protections. They do not have a voice and do not have safety standards.

Central American workers will be exploited. They will be expected to work like elephants and if they are not producing enough to satisfy their bosses, their jobs will be eliminated and replacements brought in.

We must not help or reward companies that prefer to exploit Central American workers in sweatshops instead of creating jobs in the U.S., hiring American workers and increasing wages.

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 American jobs have been lost directly 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 closely 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 trade deal 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 laws and deliberately excludes meaningful penalties for Central American governments that fail to enforce such laws. What is worse, CAFTA removes the current ability of the United States to withdraw trade benefits when countries in the region refuse to improve labor and environmental standards. By removing this important—and proven—oversight mechanism, CAFTA could perversely 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, do not have the opportunity to vote on 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 tell the Administration to renegotiate a more responsible trade agreement. We can do better.

For the DR–CAFTA countries, the agreement would permanently expand preferential market access for most goods. For us, DR–CAFTA would phase out duties on manufactured and agricultural goods over 10 to 20 years. The countries included 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, which are the keys to fair trade. 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 Nicaragua, 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 does not meet its own 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 encouraging the Administration to renegotiate a more equitable 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.

Instead 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.

The proponents of this deal 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, dirtier water, little collective bargaining rights, and are now watching their new 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 a 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 efforts.

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. Whoever the winners, they're not 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 the manufacturers said, when large 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 race to the bottom?

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 be monitored by agencies like the International 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 American Jobs to outsource and has moved on to official U.S. government functions. Since when are we are going to allow the United Nations to determine whether or not other counties 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 richest nation, we have a moral obligation to lift the standard of living of the world's poor. It is double-speak for the President to say he wants to promote democracy to the south of our borders but pushes a trade agreement that consigns subsistence workers to economic bondage and forces American businesses 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-United States 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 Nation's trade deficit with Mexico. While CAFTA and NAFTA sound alike, the two trade agreements have substantial differences that cannot be overlooked. NAFTA exported 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, Guatemala, 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 since those nations already have 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 insurgencies in the struggling democratic countries that are a part of CAFTA and the harm that would do to our national security. Finally, 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 continue; ultimately forcing the remaining U.S. textile industry to Asia. CAFTA strengthens 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 increase. Venezuelan president Hugo Chavez is using his country's vast oil money 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, thousands 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 fledgling 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 Dominican 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 Organization in 2000 and again earlier this year.

I am a longtime 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 countries 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 was $300 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 existing laws. It does nothing to require the DR–CAFTA countries 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 international 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 will not be easy. Everyone ought to be at 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 squeaking 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.democrats.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.

In reality, 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 signed one regional free trade agreement, commonly referred to as CAFTA, with five Central American nations and the Dominican Republic, and a bilateral agreement with Bahrain. Six 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 medicines at affordable prices. In effect, the President's trade representatives have elevated the protection of pharmaceutical patents above the pressing health needs of developing countries.

Specifically, the report finds that the agreements:

Delay approval of generic drugs. CAFTA and the other four signed trade agreements, as well as the Andean proposal and FTAA draft, contain provisions that block the approval of inexpensive generic drugs until the more expensive brand-name drug has received at least five years of market exclusivity in the developing nation. Under the agreements, the developing nations will often have to wait longer than the United States to gain access to low-cost versions of essential medications.

Require patent extensions. CAFTA and the other four signed trade agreements, as well as the Andean proposal, require the developing nations to grant patent extensions to the manufacturers of brand-name drugs to account for delays in the regulatory approval process in the developing nation. These provisions can extend the term of patents in the developing nations beyond their duration in the United States.

Link drug approval to patent status. CAFTA and the other four signed trade agreements, as well as the Andean proposal and the FTAA draft, require drug regulatory authorities in the developing nations to adjudicate patents despite their lack of expertise in the area of patent enforcement, placing an additional constraint on the approval and availability of low-cost generics.

Restrict compulsory licensing. The Singapore agreement, the Andean proposal, and the FTAA draft limit the circumstances under which developing nations can issue compulsory licenses authorizing generic manufacturers to produce low-cost versions of patented drugs.

Prohibit parallel importation. The trade agreements with Morocco and Singapore, as well as the Andean proposal and the FTAA draft, prevent the developing nations from importing patented drugs from abroad at the lowest available price.

Expand patent protections. The Andean proposal has a provision that would require the Andean nations to issue patents for diagnostic, therapeutic, and surgical methods that are currently exempted from patentability.

Taken together, these trade provisions will significantly impede the ability of developing countries to obtain access to inexpensive, lifesaving medications. Contrary to the principles of the Doha Declaration, these provisions in the trade agreements advance the financial interests of large multinational drug companies at the expense of the developing world's ability to address public health problems.

Ms. HARMAN. Mr. Speaker, Congress debated the North American Free Trade Agreement in 1993, I wrote an op-ed titled "Not This Treaty, Not Now," arguing that NAFTA's time had not come, that the U.S. and Canada should require Mexico to meet certain preconditions before agreeing to the trade deal. Over the objections of those who argued NAFTA should be used to leverage reforms in Mexico, it passed without enforceable provisions to protect labor rights or the environment. Supporters of the agreement insisted NAFTA would create millions of good jobs, help stem illegal immigration and raise living standards "from the Yukon to the Yucatan."

A decade later, NAFTA's promise is largely unrealized. Environmental conditions in Mexico have worsened, real wages have stagnated, the income disparity between the U.S. and Mexico has widened, and illegal immigration shows no signs of slowing. Clearly, NAFTA is not all that advocates claimed.

The broken promises of NAFTA should serve as a warning, and cast doubt on similar claims that the recently negotiated Central American Free Trade Agreement (CAFTA) will do what NAFTA has not.

Our Central American neighbors have made real economic and political progress in recent years, and the U.S. should work to re-enforce that progress. But as with NAFTA, CAFTA brings together countries with greatly varying labor and environmental standards and enforcement methods. This disparity necessitates strong and enforceable provisions to protect workers and the environment. As did NAFTA, CAFTA comes up short.

CAFTA's penalties for failing to enforce labor and environmental laws provide no real deterrent against future abuses; it offers no 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 onto 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. 3045 will be followed by a 5-minute vote on suspending the rules on H. Res. 308.

The vote was taken by electronic device, and there were—ayes 217, noes 215, not voting 2, as follows:

[Roll No. 443]

AYES—217

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Cooper
Cox
Crenshaw
Cuellar
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Matheson
McCaul (TX)
McCrery
McKeon
McMorris
Meeks (NY)
Mica
Miller (FL)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Nunes
Nussle
Ortiz
Osborne
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Skelton
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tanner
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—215

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Coble
Conyers
Costa
Costello
Cramer
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Foxx
Frank (MA)
Garrett (NJ)
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Norwood
Oberstar
Obey
Olver
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rehberg
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
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—2

Davis, Jo Ann
Taylor (NC)

□ 0003

Mr. HAYES changed his vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

SUPPORTING GOALS OF NATIONAL MARINA DAY AND URGING MARINAS CONTINUE PROVIDING ENVIRONMENTALLY FRIENDLY GATEWAYS TO BOATING

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 308.

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, 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 385, nays 0, not voting 48, as follows:

[Roll No. 444]

YEAS—385

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—48

Baker
Bass
Blunt
Boucher
Brady (TX)
Buyer
Carson
Clay
Cramer
Cubin
Cunningham
Davis, Jo Ann
Dicks
Dingell
Edwards
Garrett (NJ)
Goode
Gordon
Grijalva
Gutknecht
Hefley
Hinojosa
Holden
Istook
Jefferson
Jenkins
Markey
McHugh
Meeks (NY)
Miller, Gary
Murtha
Norwood
Otter
Oxley
Reyes
Salazar
Simpson
Skelton
Stark
Stearns
Tancredo
Taylor (NC)
Thornberry
Towns
Velázquez
Whitfield
Wilson (SC)
Young (FL)

□ 0011

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.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3045.

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

There was no objection.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3283.

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

There was no objection.

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. 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, 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(k) 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 and 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 bentonite 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, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, 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 adjust the boundaries of Redwood National Park, and for other purposes; to the Committee on Resources; 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.

S.152. An act to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River 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.176. An act to extend the deadline for commencement of construction of a hydrolectric project in the State of Alaska; to the Committee on Energy and Commerce.

S. 178. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, 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 Preservation Act to improve 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. 225. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from an mitigate the effects of avalanches on recreational users of public land; to the Committee on Resources; in addition to the Committee on Agriculture and 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.

S.229. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project and for other purposes; to the Committee on Resources.

S. 231. An act to authorize 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 Commerce.

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 and 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. 263. 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 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.

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 Cave National Park 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 Graduate Medical Education 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. 1480. An act to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes and tribal corporation; 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 1998 to modify 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. 1485. 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. 481. An act to further the purposes of the Sand Creek Massacre 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.

H.R. 3453. An act 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.

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 effect 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:

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; New Mexico [Docket No. 04-068-1] received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3307. 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.

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.

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.

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.

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 529 of the Internal Revenue Code (RIN: 3064-AC90) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3312. A letter from the Assistant to the Board, 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.

3313. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Certain Broker-Dealers Deemed Not To Be Investment Advisors [Release Nos. 34-51523; IA-2376; File No. S7-25-99] (RIN: 3235-AH78) received April 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3314. A letter from the Attorney, Office of Legislation and Regulatory Law, OS, Department of Energy, transmitting the Department's final rule—Policy on Research Misconduct (RIN: 1901-AA89) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

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 Regulation for Mental Health Parity [CMS-4094-F3] (RIN: 0938-AN22) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3316. A letter from the Assistant Secretary, DIM, Securities and Exchange Commission, transmitting the Commission's final rule—Rulemaking for EDGAR System [Release Nos. 33-8590; 34-52052; 35-28002; 39-2437; IC-26990 File No. S7-16-04] (RIN: 3235-AH79) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3317. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Colombia for defense articles and services (Transmittal No. 05-34), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3318. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of

a proposed license for the export of major defense articles or defense services sold commercially to Russia and Kazakhstan (Transmittal No. DDTC 026-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

3319. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense articles or defense services sold commercially to Luxembourg (Transmittal No. DDTC 011-05), pursuant to 22 U.S.C. 2776(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 Presidential Determination No. 2005-29, ''Waiver of Restrictions on Providing Funds to the Palestinian Authority,'' pursuant to Section 552, Section 515, and Section 529 of the FY 2004 Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on International Relations.

3321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-134, ''Uniform Real Property Electronic Recording Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-133, ''Abatement of Nuisance Construction Projects Amendment Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-136, ''Closing of Patricia Harris Drive, N.E., in Square 4325, S.O. 03-5187, Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-135, ''Removal from the Permanent System of Highways, Savannah Street, S.E., and the Dedication of Land for Street Purposes (S.O. 04-8736) Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-139, ''Tobacco Settlement Model Amendment Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-138, ''Utility Taxes Technical Corrections Temporary Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-137, ''Qualified Zone Academy Bond Project Forward Commitment Approval Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-132, ''Nuisance Properties Abatement Reform Amendment 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 a copy of D.C. Act 16-131, ''Summer Youth Employment Act of 2005,'' pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3330. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's ''Major'' final rule—Federal Acquisition Circular 2005-04—received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3331. A letter from the Federal Liason Officer, PTO, Department of Commerce, transmitting the Department's final rule—Revision of Search and Examination Fees for Patent Cooperation Treaty Applications Entering the National Stage in the United States [Docket No. 2005-P-052] (RIN: 0651-AB64) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3332. A letter from the Chief Counsel, BPD, Department of Treasury, transmitting the Department's final rule—U.S. Treasury Securities: State and Local Government Series—received June 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3333. A letter from the Chief Counsel, BPD, Department of Treasury, transmitting the Department's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Bidder Definitions [Docket No. BPD GSRS 05-02] received May 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3334. A letter from the Assistant Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Liquor Dealers; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002 (2004R-258T) [T.D. TTB-25] (RIN: 1513-AA19) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3335. A letter from the Assistant Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for United States Use in Law Enforcement Activities [T.D. TTB-26] (RIN: 1513-AA99) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3336. A letter from the Asst. Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of the Horse Heaven Hills Viticultural Area (2002R-103P) [T.D. TTB-28; Re: Notice No. 27] (RIN: 1513-AA91) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3337. A letter from the Asst. Chief, Regulations and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of the High Valley Viticultural Area (2003R-361P) [T.D. TTB-30; Re: Notice No. 28] (RIN: 1513-AA79) received July 11, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3338. A letter from the Asst. Chief, Regualtions and Procedures, ATTTB, Department of Treasury, transmitting the Department's final rule—Establishment of Alexandria Lakes Viticultural Area (2002R-152P) [T.D. TTB-29; Re: Notice No. ATF-967] (RIN: 1513-AA45) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3339. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Allocation of Income and Deductions Among Taxpayers (Rev. Rul. 2005-43) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3340. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credit or Abatement; Determination of Correct Tax Liability (Rev. Proc.) received April 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3341. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-38) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3342. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Brownfields Demonstration Program for Qualified Green Building and Sustainable Design Projects [Notice 2005-48] received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3343. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Uniform Capitalization of Costs (Rev. Rul. 2005-42) received June 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3344. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Last-In, First-Out Inventories (Rev. Rul. 2005-37) received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3345. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Election Out of GST Deemed Allocations [TD 9208] (RIN: 1545-BB54) received June 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3346. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Termination of Tobacco Quotas and Price Support Programs [Notice 2005-51] received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3347. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Changes in Accounting Periods and in Methods of Accounting (Rev. Proc. 2005-35) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3348. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Items of General Interest [Announcement 2005-37] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3349. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters (Rev. Proc. 2005-40) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3350. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneus (Notice 2005-52) received June 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3351. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Classification of Certain Foreign Entities [TD 9197] (RIN: 1545-BD78) received April 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3352. A letter from the Acting Chief, Publications and Regulations, Internal Revenue

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.

3353. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Rules for Certain Reserves (Rev. Rul. 2005-29) received May 26, 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 [UIL No: 671. 00-00] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3355. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Media Rights Acquired in Connection with a Sports Franchise [UIL 167.03-03] received June 16, 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—Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes [Notice 2005-44] received June 16, 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-AG27) 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 administrative sites on the National Forest System''; jointly to the Committees on Agriculture and Resources.

3360. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification that implemenation of the FY 2005 International Military Education and Training (IMET) program requires revision to the level justified in the FY 2005 Congressional Budget Justification for Foreign Operations in Iraq, pursuant to 108–447, section 515; jointly to the Committees on International Relations and Armed Services.

3361. A letter from the Acting General Counsel, Department of Commerce, transmitting a draft bill entitled, ''Marine Mammal Protection Act Amendments of 2005''; jointly to the Committees on Resources, the Judiciary, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee of Conference. Conference report on H.R. 6. A bill to ensure jobs for our future with secure, affordable, and reliable energy (Rept. 109–190). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H.R. 1132. A bill to provide for the establishment of a controlled substance monitoring program in each State; 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. 3204. A bill 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; with an amendment (Rept. 109–192). 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. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 216. Resolution 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 (Rept. 109–195). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 378. Resolution recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990 (Rept. 109–196 Pt. 1). Ordered to be printed.

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 of Utah: Committee on Rules. House Resolution 392. Resolution 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 (Rept. 109–198). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 393. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–199). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 394. Resolution 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 (Rept. 109–200). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 395. Resolution providing for consideration of motions to suspend the rules (Rept. 109–201). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 396. Resolution 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 (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. LEE):

H.R. 3449. 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. MCDERMOTT, Ms. 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 Michigan):

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 on the Judiciary.

By Ms. HART:

H.R. 3451. A bill to amend the Internal Revenue Code of 1986 to provide for the use of redevelopment bonds for environmental remediation; to the Committee on Ways and Means.

By Mr. TURNER (for himself, Mr. OXLEY, Mr. NEY, Mr. HOBSON, Mr. BOEHNER, Mrs. JONES of Ohio, 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 information; 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, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on

Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3454. A bill to amend title XIX of the Social Security Act to require Medicaid coverage of disabled children, and individuals who became disabled as children, without regard to income or assets; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 3455. A bill to amend the Real Estate Settlement Procedures Act of 1974 to provide for homeowners to recover treble damages from mortgage escrow servicers for failures by such servicers to make timely payments from escrow accounts for homeowners insurance, taxes, or other charges, and for other purposes; 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, to provide 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 (for himself and Mr. FOLEY):

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 to exclude from gross income the income from 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 Park City, Utah, and for other purposes; to the Committee on Resources.

By Mr. BISHOP of Utah (for himself, Mr. CANNON, Mr. CULBERSON, Mr. OTTER, Mr. HERGER, Mr. GIBBONS, and Mr. WALDEN of Oregon):

H.R. 3463. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five per centum of the proceeds of the sale of public land lying within said States as provided by their respective Enabling Acts; to the Committee on Resources.

By Mr. BISHOP of Utah (for himself, Mr. HERGER, and Mr. CANNON):

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 Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself and Mr. HOYER):

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 Resources, and in addition to the Committees on Ways and Means, 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. DAVIS of Illinois (for himself and Ms. JACKSON-LEE of Texas):

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 (for himself and Ms. JACKSON-LEE of Texas):

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 (for himself, Mr. EDWARDS, Mr. RANGEL, Mr. PALLONE, Mr. MCGOVERN, Ms. DELAURO, Mr. DAVIS of Illinois, and Ms. WASSERMAN SCHULTZ):

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 practices through increased consumer education, and for other purposes; to the Committee on Armed Services.

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 (for himself and Ms. CORRINE BROWN of Florida):

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, Incorporated; 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 (for himself, Mr. MENENDEZ, Mr. MCINTYRE, and Mr. DAVIS of Tennessee):

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 Committees 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.

By Mr. RYUN of Kansas:

H.R. 3484. A bill to suspend temporarily the duty on certain athletic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3485. A bill to suspend temporarily the duty on certain work footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3486. A bill to suspend temporarily the duty on certain footwear for men; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3487. A bill to suspend temporarily the duty on certain rubber or plastic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3488. A bill to suspend temporarily the duty on certain work footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3489. A bill to suspend temporarily the duty on certain athletic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3490. A bill to suspend temporarily the duty on certain rubber or plastic footwear; to the Committee on Ways and Means.

By Mr. RYUN of Kansas:

H.R. 3491. 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. MCCARTHY, and Ms. LEE):

H.R. 3492. A bill to amend the Truth in Lending Act to protect consumers from unfair 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. INGLIS 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 Taiwan; to the Committee on International Relations.

By Mr. DOOLITTLE:

H. Con. Res. 220. Concurrent resolution expressing the sense of the Congress on the fourth anniversary of the terrorist attacks launched against the United States on September 11, 2001; to the Committee on Government Reform, 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. ROHRABACHER, Mr. TANCREDO, and Mr. CULBERSON):

H. Con. Res. 221. Concurrent resolution expressing the sense of the Congress that the President should immediately and unequivocally call for the enforcement of existing immigration laws in order to reduce the threat of a terrorist attack and to reduce the massive 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. LATHAM:

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. LOWEY:

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 Rules.

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.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

66. The SPEAKER presented a memorial of the General Assembly of the State of Tennessee, relative to Senate Joint Resolution No. 277 urging the Congress of the United States to stop cuts in agriculture-related programs and initiatives in the Fiscal Year 2006 federal budget; to the Committee on Agriculture.

67. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution 7 memorializing the Congress of the United States to take appropriate action so that funding to the Joint Manufacturing Center in Lima, Ohio, is not reduced through the Base Realignment and Closure process; to the Committee on Armed Services.

68. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 11 memorializing the Congress of the United States to take appropriate action so that Wright-Patterson Air Force Base is excluded from the list of base closure for the Base Realignment and Closure process; to the Committee on Armed Services.

69. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 12 memorializing the Congress of the United States to take appropriate action so that the NASA John H. Glenn Research Center and the Defense Finance Accounting Services Center in Cleveland are excluded from the list of base closure for the Base Realignment and Closure process; to the Committee on Armed Services.

70. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 13 memorializing the Congress of the United States to take appropriate action so that the Youngstown Joint Air Reserve Station in Vienna Township, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

71. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 90 memorializing the Congress of the United States to inquire into the status of and pursue the expeditious resolution of the third nomination for the Medal of Honor of U.S. Army Colonel David H. Hackworth; to the Committee on Armed Services.

72. Also, a memorial of the General Assembly of the State of Ohio, relative to Seante Concurrent Resolution No. 10 memorializing the Congress of the United States to take appropriate action so that the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport in Springfield, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

73. Also, a memorial of the General Assembly the State of Ohio, relative to Senate Concurrent Resolution No. 9 memorializing the Congress of the United States to take appropriate action so that the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

74. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 457 urging the Congress of the United States to consider the importance of this installation in this time of war on terrorism and the vital need to protect our Nation; to the Committee on Armed Services.

75. Also, a memorial of the Legislature of the State of Maine, relative to House Joint Resolution No. 904 memorializing the Congress of the United States to continue its support and advocacy for the Portsmouth Naval Shipyard in Kittery, Maine; to the Committee on Armed Services.

76. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No. 10 memorializing the Congress of the United States to take appropriate action so that the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport in Springfield, Ohio, is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

77. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution No.9 memorializing the Congress of the United States to take appropriate action so that the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

78. Also, a memorial of the General Assembly of the State of Tennessee, relative to House Joint Resolution 146 memorializing the Congress of the United States to enact legislation to posthumously award First Lieutenant Garlin Murl Conner, United States Army, a much deserved Medal of Honor; to the Committee on Armed Services.

79. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 3 urging the President of the United States and the Congress of the United States to support federal policies designed to eliminate homelessness in the United States; to the Committee on Financial Services.

80. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 77 urging the United States Congress not to cut federal community development block grant funding as proposed by the administration in the 2006 fiscal year federal budget and to support its restoration into the Department of Housing and Urban Development budget at its current funding level of $4,700,000,000; to the Committee on Financial Services.

81. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 245 requesting the Congress of the United States to amend the No Child Left Behind Act of 2001 according 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.

82. Also, a memorial of the Senate of the State of Illinois, relative to Senate Resolution No. 148 urging the Congress of the

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 National Family Caregiver Supoprt Program; to the Committee on Education and the Workforce.

83. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 245 memorializing the Congress of the United States to amend the No Child Left Behind Act of 2001 according 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.

84. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 35 memorializing the Congress of the United States to amend the Energy Policy Act of 1992 to specify that an electric-hybrid vehicle must receive credit as being an alternative fueled vehicle for purposes of the requirement that 75% of new light duty motor vehicles acquired annually for state government fleets be alternative fueled vehicles; to the Committee on Energy and Commerce.

85. Also, a memorial of the Legislature of the State of New Hampshire, relative to Senate Concurrent Resolution No. 4 supporting federal funding for Lyme disease research; to the Committee on Energy and Commerce.

86. Also, a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution No. 9 urging 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.

87. Also, a memorial of the House of Representatives of the State of Michigan, 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 Legislature of the State of Maine, relative to Joint Resolution memorializing the Congress of the United States and the United States Environemntal Protection Agency to control mercury as a hazardous air pollutant; to the Committee on Energy and Commerce.

89. Also, a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 21 urging the Congress of the United States to enact the Clear Skies Act of 2005; to the Committee on Energy and Commerce.

90. Also, a memorial of the House of Representatives of the State of Oregon, relative to House Memorial 1 urging the Congress of the United States to provide for a domestic energy policy that ensures an affordable supply of natural gas and that embraces a concerted national effort to promote greater energy efficiency, increased energy conservation and environmentally responsible natural gas production; to the Committee on Energy and Commerce.

91. Also, a memorial of the House of Representatives of the State of Rhode Island, relative to House Resolution 05R122(05-H6245) memorializing the Congress of the United States to provide for a domestic energy policy that ensures an affordable supply of natural gas and embraces a concerted national effort to promote greater energy efficiency and environmentally responsible natural gas production; to the Committee on Energy and Commerce.

92. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the Congress of the United States to provide a domestic natural gas policy; to the Committee on Energy and Commerce.

93. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to House Resolution commending the Rebublic of China, Taiwan, on its contributions to promote world health; to the Committee on International Relations.

94. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 141 urging the Federal Government to provide medical care and compensation to nuclear victims in the Republic of the Marshall Islands; to the Committee on International Relations.

95. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2009 urging the Congress of the United States to send federal funds directly to the Arizona Legislature for appropriation and oversight; to the Committee on Government Reform.

96. Also, a memorial of the Legislature of the State of Oregon, relative to House Joint Memorial No. 1 urging the Congress of the United States to pass legislation that will reauthorize and extend the Secure Rural Schools and Community Self-Determination Act of 2000 for an additional 10-year period through federal fiscal year 2016, and that the Act be continued in its present form and be funded through a mandatory continuing appropriation; to the Committee on Resources.

97. Also, a memorial of the Legislature of the State of Nevada, relative to Senate Joint Resolution NO. 12 urging the President of the United States to direct the Secretary of the Interior to provide full funding for the Clark County Sport Shooting Park; to the Committee on Resources.

98. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 204 memorializing the Congress of the United States to enable to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Resources.

99. Also, a memorial of the Legislature of the State of Washington, relative to Senate Joint Memorial No. 8000 memorializing the President of the United States and the Congress of the United States to support the establishment of the Ice Age Floods National Geologic Trail; to the Committee on Resources.

100. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No.56, supporting passage of the Native Hawaiian Government Reorganization Act (The ''AKAKA Bill''); to the Committee on Resources.

101. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 78 urging the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program; to the Committee on the Judiciary.

102. Also, a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution No. 230 urging the President of the United States and the Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program; to the Committee on the Judiciary.

103. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 116 memorializing the Congress of the United States to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on the Judiciary.

104. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the President and Congress of the United States not to require a passport to cross the Canadian border; to the Committee on the Judiciary.

105. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent 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 from their respective states who died on active duty; to the Committee on the Judiciary.

106. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 66 memorializing the Congress of the United States to permit 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 an alternate long-term solution can be determined; to the Committee on Transportation and Infrastructure.

107. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 12 memorializing the Congress of the United States to provide the necessary funding to restore Calcasieu Ship Channel in southwest Louisiana to its authorized dimensions in order that the economic, safety, and security concerns may be adequately addressed; to the Committee on Transportation and Infrastructure.

108. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 31 memorializing the Congress of the United States to enact highway reathorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; to the Committee on Transportation and Infrastructure.

109. Also, a memorial of the Senate of the State of Iowa, relative to Senate Resolution No. 58 declaring support for Amtrak; to the Committee on Transportation and Infrastructure.

110. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to House Resolution 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.

111. Also, a memorial of the Legislature of the State of Maine, relative to Joint Resolution memorializing the President of the United States and the Congress of the United States in support of the Togus Veterans Affairs Medical Center; to the Committee on Veterans' Affairs.

112. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 249 urging Congress to support legislation conferring veterans' benefits on Filipino World War II veterans; to the Committee on Veterans' Affairs.

113. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the President of the United States and the Congress of the United States to continue stipends at current levels for veterans in veterans' nursing homes; to the Committee on Veterans' Affairs.

114. Also, a memorial of the Legislature of the State of Arizona, relative to Senate Concurrent Resolution No. 1003 urging the Congress of the United States to enact legislation to achieve social security reform; to the Committee on Ways and Means.

115. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 76 urging the Congress of the United States to reject proposed changes to the social security system; to the Committee on Ways and Means.

116. Also, a memorial of the Legislature of the State of Arizona, relative to House Concurrent Memorial 2006 urging the Congress of the United States to ensure that the United States does not enter into the Free Trade Area of the Americas; to the Committee on Ways and Means.

117. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 100 urging President George W. Bush to reconsider his plan to privatize social security; to the Committee on Ways and Means.

118. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 94 memorializing the Congress of the United States of America to take such actions as are necessary to work to abolish the federal estate tax permanently; to the Committee on Ways and Means.

119. Also, a memorial of the Legislature of the State of Montana, relative to Senate Joint Resolution No. 17 urging the Congress of the United States to support the renewable energy production incentive program and production tax credit program; jointly to the Committees on Energy and Commerce and Ways and Means.

120. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to Senate Resolution memorializing the Congress of the United States to establish an annual observance of ''Liberty Day''; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

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. 3495. A bill for the relief of Thomas W. Sikes and Wellingn 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. 19: Mr. ALEXANDER.

H.R. 128: Ms. LINDA T. SÁNCHEZ of California and Ms. SCHWARTZ of Pennsylvania.

H.R. 188: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. PAYNE.

H.R. 269: Mr. SCHWARZ of Michigan and Mr. PAYNE.

H.R. 282: Mr. NEUGEBAUER.

H.R. 303: Mr. WEINER.

H.R. 323: Mr. KUHL of New York.

H.R. 376: Ms. MILLENDER-MCDONALD.

H.R. 425: Ms. ESHOO.

H.R. 517: Mr. CARDOZA, Mrs. EMERSON, Ms. FOXX, Mr. HONDA, and Mr. BISHOP of Utah.

H.R. 588: Mr. BURTON of Indiana.

H.R. 602: Mr. HIGGINS.

H.R. 615: Mr. LANTOS and Mr. GRIJALVA.

H.R. 759: Ms. HARMAN.

H.R. 772: Mr. MCCAUL of Texas and Ms. MCCOLLUM of Minnesota.

H.R. 808: Mr. KANJORSKI.

H.R. 809: Mr. CONAWAY.

H.R. 819: Mr. RAHALL.

H.R. 859: Mr. GERLACH.

H.R. 896: Mr. WEXLER and Mr. GEORGE MILLER of California.

H.R. 949: Mr. OWENS and Mr. WOLF.

H.R. 998: Mr. SCHWARZ of Michigan.

H.R. 1020: Mr. MURTHA and Mr. PLATTS.

H.R. 1029: Mr. SCHIFF.

H.R. 1059: Ms. WASSERMAN SCHULTZ, Ms. CORRINE BROWN of Florida, and Mr. CARNAHAN.

H.R. 1120: Mr. SIMPSON, Mr. GREEN of Wisconsin, and Mrs. TAUSCHER.

H.R. 1141: Mr. BISHOP of Georgia and Mr. WILSON of South Carolina.

H.R. 1156: Mr. WU.

H.R. 1259: Ms. DELAURO and Mr. WEXLER.

H.R. 1272: Mr. LEVIN and Mr. MCNULTY.

H.R. 1273: Mr. CHABOT.

H.R. 1288: Mr. MORAN of Kansas and Mr. TAYLOR of North Carolina.

H.R. 1366: Mr. GENE GREEN of Texas.

H.R. 1399: Mr. RYAN of Ohio and Mr. OLVER.

H.R. 1402: Mr. ANDREWS, Mr. COOPER, Mr. DICKS, Mr. FILNER, Mr. HASTINGS of Florida, Mr. HONDA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Mr. LANGEVIN, Mr. LARSON of Connecticut, Mr. LEVIN, Mr. LYNCH, Mrs. MALONEY, Ms. MATSUI, Mrs. MCCARTHY, Mr. MEEHAN, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. MOLLOHAN, Mr. MORAN of Virginia, Mr. MURTHA, Mr. NADLER, Mr. OBERSTAR, Ms. PELOSI, Mr. RANGEL, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mr. TOWNS, Mr. WU, and Mr. WYNN.

H.R. 1409: Mr. HUNTER.

H.R. 1425: Mr. WEXLER.

H.R. 1426: Mr. WU.

H.R. 1471: Mr. SOUDER and Ms. VELÁZQUEZ.

H.R. 1474: Mr. GRIJALVA.

H.R. 1517: Mr. LEACH.

H.R. 1548: Mr. WAMP.

H.R. 1554: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1558: Mr. THOMPSON of California and Mr. RANGEL.

H.R. 1588: Mr. HOLT.

H.R. 1615: Mr. EVANS, Ms. BALDWIN, Mrs. DAVIS of California, Mr. NADLER, and Mr. MCNULTY.

H.R. 1687: Mrs. NAPOLITANO.

H.R. 1704: Mr. PENCE.

H.R. 1736: Mr. DAVIS of Alabama.

H.R. 1957: Mr. MACK.

H.R. 2014: Mr. CUELLAR.

H.R. 2048: Mr. STARK and Ms. BORDALLO.

H.R. 2062: Mr. PITTS, Ms. SCHWARTZ of Pennsylvania, Mr. MURTHA, Ms. HART, and Mr. DOYLE.

H.R. 2076: Mr. MICHAUD.

H.R. 2106: Mr. FORD.

H.R. 2121: Mr. GERLACH, Mr. FITZPATRICK of Pennsylvania, Mr. BOEHNER, and Mr. TANNER.

H.R. 2328: Mr. MACK.

H.R. 2330: Mr. LAHOOD and Mr. CUELLAR.

H.R. 2356: Mr. UDALL of New Mexico, Mr. BOUCHER, Mr. LARSEN of Washington, Mr. COBLE, Mr. DEFAZIO, Mr. TIBERI, Mr. ETHERIDGE, Mr. CLEAVER, Mr. ROSS, Mr. RUPPERSBERGER, Mrs. DRAKE, Mr. PORTER, Mr. GOODLATTE, Mrs. CAPPS, Ms. BALDWIN, Mr. CALVERT, Mr. PASCRELL, Mr. SCHWARZ of Michigan, and Mr. CONAWAY.

H.R. 2498: Mr. FORTENBERRY, Mr. GREEN of Wisconsin, and Mr. BERRY.

H.R. 2534: Mrs. DRAKE.

H.R. 2569: Mr. CASE.

H.R. 2682: Mr. GOODLATTE, Ms. HART, and Mr. PAUL.

H.R. 2746: Mr. REYES, Mr. MARKEY, Mr. DOGGETT, and Mr. CUMMINGS.

H.R. 2780: Ms. WASSERMAN SCHULTZ, Mr. MURTHA, Mr. WELDON of Pennsylvania, Mr. VAN HOLLEN, and Mr. DAVIS of Alabama.

H.R. 2793: Mr. LEACH, Mr. PETRI, and Ms. BALDWIN.

H.R. 2803: Mr. DAVIS of Alabama and Mr. FERGUSON.

H.R. 2939: Mr. SIMMONS.

H.R. 2963: Mr. SMITH of Washington, Ms. LINDA T. SÁNCHEZ of California, and Mr. FILNER.

H.R. 2989: Ms. BEAN.

H.R. 2992: Mr. WEINER, Mr. OWENS, and Ms. CARSON.

H.R. 3034: Mr. MCGOVERN, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. WAXMAN, Ms. WASSERMAN SCHULTZ, and Mr. PICKERING.

H.R. 3098: Mr. CULBERSON, Mr. REYES, Mr. SHERMAN, Mr. RUSH, Mr. ISRAEL, Mr. GONZALEZ, Mr. EMANUEL, Mr. SCHIFF, Mr. LEWIS of California, and Mr. DOYLE.

H.R. 3111: Mr. ALEXANDER.

H.R. 3132: Mr. SMITH of New Jersey, Mr. CANNON, Mr. KLINE, Mr. CANTOR, Mr. ALEXANDER, Mr. ROSS, Mr. KING of New York, and Mr. KING of Iowa.

H.R. 3135: Mr. AL GREEN of Texas, Mr. BARRETT of South Carolina, Mr. KOLBE, and Mr. MORAN of Kansas.

H.R. 3137: Mr. CALVERT, Mr. BURGESS, Mr. BAKER, Mr. DOOLITTLE, Mr. ISTOOK, Mr. BARTLETT of Maryland, Mr. CRAMER, and Mr. WAMP.

H.R. 3146: Mr. RAHALL, Mr. BISHOP of Georgia, Mr. WELLER, Mr. BOEHLERT, Mr. NEAL of Massachusetts, Mrs. DRAKE, and Mrs. MYRICK.

H.R. 3166: Mr. PALLONE.

H.R. 3184: Mr. SCHIFF and Mr. CROWLEY.

H.R. 3188: Mr. PETERSON of Minnesota, Mr. ROTHMAN, and Ms. VELÁZQUEZ.

H.R. 3195: Mr. CONYERS, Mr. TAYLOR of Mississippi, Mr. FALEOMAVAEGA, Ms. DELAURO, and Mr. LANTOS.

H.R. 3268: Mr. MILLER of Florida, Mr. KOLBE, and Mr. HUNTER.

H.R. 3301: Mr. CANTOR, Mr. NUSSLE, Mr. SOUDER, and Mr. EMANUEL.

H.R. 3306: Mr. OBEY and Ms. JACKSON-LEE of Texas.

H.R. 3333: Mr. BURGESS.

H.R. 3352: Mr. MELANCON, Mr. CHANDLER, Mr. ISRAEL, Mr. ROSS, Mr. CARDOZA, Mr. POMEROY, Mr. BERRY, Mr. CASE, Mr. BOSWELL, Mr. COOPER, Ms. HERSETH, Mr. BOYD, Mr. THOMPSON of California, Mr. SCHIFF, Mr. BOREN, Mr. HOLDEN, Mr. REYES, Mr. BACA, Mrs. NAPOLITANO, Mr. BARROW, Mr. CRAMER, Mr. DAVIS of Tennessee, Mr. MICHAUD, Mr. MOORE of Kansas, Mr. PETERSON of Minnesota, Mr. TANNER, Mr. TAYLOR of Mississippi, and Mr. CUELLAR.

H.R. 3358: Ms. HARRIS, Mr. JOHNSON of Illinois, Mr. SHIMKUS, and Mr. FALEOMAVAEGA.

H.R. 3359: Mr. NADLER, Mr. CASE, and Ms. DEGETTE.

H.R. 3361: Mr. SCHWARZ of Michigan and Mr. NEAL of Massachusetts.

H.R. 3385: Ms. ESHOO.

H.R. 3401: Mr. BROWN of South Carolina.

H.R. 3402: Mr. BACHUS.

H.R. 3405: Mr. WALDEN of Oregon, Mr. MANZULLO, Mr. BOOZMAN, and Mr. BARTLETT of Maryland.

H.R. 3417: Mr. SOUDER and Mr. SANDERS.

H.R. 3438: Mr. RUPPERSBERGER.

H.R. 3442: Ms. ESHOO.

H.J. Res. 55: Mr. STARK, Mr. CONYERS, Ms. MCKINNEY, and Ms. KAPTUR.

H.J. Res. 61: Mr. WILSON of South Carolina, Mr. SOUDER, Mr. GOODE, Mr. AKIN, Mr. RYUN of Kansas, Mr. SHADEGG, Mrs. MYRICK, Mr. PITTS, Mr. CULBERSON, Mr. MCCAUL of Texas, Mr. MARIO DIAZ-BALART of Florida, Mr. BRADY of Texas, Mr. HENSARLING, Mrs. MUSGRAVE, Mr. BARRETT of South Carolina, Mr. WELDON of Florida, Mr. CHOCOLA, Mr. RYAN of Wisconsin, Ms. HART, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mr. DOOLITTLE,

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. NEUGEBAUER, 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. COBLE, and Mr. SESSIONS.

H. Res. 286: Mr. WEXLER.

H. Res. 325: Mr. SWEENEY, Mr. LYNCH, Mr. PAYNE, Ms. DELAURO, Ms. LINDA T. SÁNCHEZ of California, and Mr. SCHWARZ of Michigan.

H. Res. 338: 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. MEEHAN.

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. 2005-53, 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.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, WEDNESDAY, JULY 27, 2005 No. 104—Book II

Senate

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 397, which the clerk will report.

The assistant legislative clerk read as follows:

A 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.

The PRESIDING OFFICER. The majority leader.

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.

Bill Frist, George Allen, Larry E. Craig, Craig Thomas, Michael B. Enzi, Jeff Sessions, Kit Bond, Lamar Alexander, Mitch McConnell, Sam Brownback, Tom Coburn, Richard Burr, John McCain, Richard Shelby, Saxby Chambliss, John Ensign, Chuck Hagel.

Mr. FRIST. Mr. President, this vote can technically ripen as early as 1 a.m., not tomorrow but the next day, Friday morning. I am not certain at this point if we will vote then or later that morning. I will continue and want to continue to consult with my colleagues on the schedule.

As we just discussed on the Senate floor, we have a lot of business to accomplish over the next several days. We have the energy conference report, the highway conference report, the Interior bill, the veterans health money attached, a number of nominations. Therefore, I hope that when cloture is invoked, we can find a way to bring this bill to a final vote so that we can expedite some of these other very important issues.

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 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

Mr. FRIST. I ask for the yeas and nays.

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

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:

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:

(vi) an action or proceeding 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.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the actions that have just taken place have put us on S. 397, the Protection of Lawful Commerce in Arms Act. Earlier this morning, I submitted for the RECORD some now 67 cosponsors, which demonstrates that this bill is clearly very bipartisan legislation, supported by a Republican and Democrat majority in the Senate.

The actions the leader has just taken to 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,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

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 succeeded in attaching a couple of unrelated poison-pill amendments that ultimately caused the bill to fail.

The need for this legislation is very real. Over the course of 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 right of law-abiding American consumers, 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 filed primarily by municipalities 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 this bill earlier in the day seeking to hold gun manufacturers and sellers liable for the cost of injuries caused by people over whom they have no control—criminals who choose to use firearms illegally.

This is a bipartisan bill, as I mentioned. Let me acknowledge my primary Democrat sponsor, Senator MAX BAUCUS of Montana, and thank him for his work on this initiative. Senator BAUCUS and I introduced this bill in February, and more than half of the Senate, both Republicans and Democrats, have now joined us since it was formally introduced in its final form.

Earlier in the day, I inserted into the RECORD all of those who are now cosponsors. This range of cosponsorship reflects extraordinary, widespread support that crosses party and demographic lines and covers the spectrum of political ideologies represented in the Senate. It demonstrates a strong commitment by a majority of this body to take a stand against a trend toward predatory litigation that impugns the integrity of our courts, threatens a domestic industry that is critical to our national defense, jeopardizes hundreds of thousands of good-paying jobs of hard-working men and women across America, and puts at risk the access Americans have to a legal product used for hundreds of years across the Nation for lawful purposes such as recreation and, most important, self-defense.

I have used the term ''junk lawsuits,'' and I wish to make very clear to everyone listening to this debate that I do not mean any disrespect in any way whatsoever to the victims of gun violence who might be involved in these actions. Although their names are sometimes used in these lawsuits, they are not the people who came up with the notion of going after the industry instead of going after the criminals responsible for the injuries or the loss of life of their loved ones. That notion originated with bureaucrats, anti-gun advocates and the lawyers who work with them.

Victims, including their families and communities, deserve our support and compassion, not to mention our insistence on an aggressive law enforcement effort that puts punishment where it ought to be rendered—to the criminal.

In the nearly 6 years of the Bush administration, death by guns and crime in which guns were used in the commission of that crime have plummeted. Why? Because this Justice Department has gone after the criminal and not the law-abiding citizen.

It is the criminal who acts illegally. It is the criminal who ought to be prosecuted. But somehow, some who are involved in this movement have a tremendously distorted idea that the person who produces a legal product and sells that legal product somehow is responsible because they just should have known that product might fall into the hands of a criminal and might cost someone their life.

If those laws need to be toughened or if law enforcement efforts need to be improved, then the proper source of help is legislators and governments to ensure the tightening of the laws and not the courts and certainly not law-abiding businesses or workers who had nothing to do with those who were victimized by the criminal element of this country.

No. These junk lawsuits do not target the responsible party in those terrible crimes. This is predatory legislation, looking for a convenient deep pocket to pay for somebody else's criminal behavior, and by every definition it therefore deserves to be called a junk lawsuit. If one wants to stand on the floor and defend that kind of action in the courts of America, so be it. I believe in the democratic process. But Americans get it, they clearly understand it, and so do Senators, and that is why now 67 Senators support this legislation. These are junk lawsuits because they are driven for political motives to hobble or bankrupt the gun industry as a way of controlling guns.

For decades, anti-gunners have come to the Senate floor or the House with one scheme or one idea after another, and the American people, based on what they believe strongly to be their constitutional 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 courthouse. 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.

I used an analogy last year. I will use it again today. It is like saying to GM, General Motors, or any car manufacturer that because somebody buys their car and gets drunk and gets in that car and kills someone out on the road, gee whiz, they should have known that a drunk would drive that car, and therefore they should never have produced it, and therefore they are liable. For years, I have always understood that there are some in our society who say no one is responsible for their action, no one should be held responsible for their action, and that is an underlying core of the debate we are talking about or the issue we are talking about today.

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. This is not a gun industry immunity 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 causes of action 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, or 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 under title 18, section 924(h) of the U.S. Code or comparable State law—in plain English, that means someone who 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—that individual is not shielded from civil lawsuits by anybody harmed by that firearm transfer.

I am not quite sure how much more clearly we can make the law.

Finally, this bill does not protect any member of the gun industry from lawsuits for harm resulting from any illegal actions they have committed. Let me repeat it. If a gun dealer or manufacturer violates the law, this bill is not going to protect them from a lawsuit brought against them for harm resulting from that misconduct. Section 5 further explains that this includes, but is not limited to, the situation in which these parties falsify the firearms records they are required to keep under Federal or State law or knowingly fail to make appropriate entries into those records or if they worked with others in making false statements about the lawfulness of the selling of firearms.

You will hear arguments on the floor about certain gun dealers and that we are now holding them harmless, even though on the surface of the argument it appears they violated the law. Let me again say, as I said, if in any way they violate State or Federal law or alter or fail to keep records that are appropriate as it relates to their inventories, they are in violation of law. This bill does not shield them, as some would argue. Quite the contrary. If they have violated existing law, they violated the law, and I am referring to the Federal firearms laws that govern a licensed firearm dealer and that govern our manufacturers today.

Another example of conduct that would not be shielded from a civil lawsuit under this bill is the case in which the manufacturer or seller aided, abetted or conspired with any other person to sell firearms or ammunition if they knew or had reasonable cause to believe that the purchaser intended to use those products for the furtherance of a crime.

How clear can you get? If a manufacturer or a federally licensed firearms dealer knew they were selling to somebody who had criminal intent in mind for the use of the weapon, the firearm they just purchased, they are in violation of the law and it does not protect them. This is not a shield to do just that.

What I have listed for the convenience of my colleagues 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 individuals should not 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.

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 kind of lawsuit, a suit trying to fix 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 one. The junk lawsuits 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 runaway juries and activist judges can turn common sense on its head in a lot 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 the court system 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 would also bring havoc to our marketplace. 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 still stay competitive. For some of them, this will mean layoffs, and ultimate bankruptcies, and the closure of the manufacturer's door.

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 laws, the need to defend those lawsuits literally costs hundreds 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 firearms industry taken together would not equal 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 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 companies can pass the costs off 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 is where 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 through accessing 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 these 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 tell you 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 Congress 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 a 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 see 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 ask 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 they were successful in doing so. I hope those who have signed on as cosponsors 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 American public 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 issue even though clearly and profoundly we have described it as 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 approached: 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 assuredly the criminal element ought to be. We have watched some administrations walk one direction. But I tell you where this administration is. It believes the criminal element ought to be prosecuted. And guess what happened in America when we started prosecuting the criminal element and putting them behind bars. Crime began to go down very rapidly. The streets of America and the communities of America became safer places because those who would violate the law and, more 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 zealous 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 that 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 to 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 proceeding in 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 KOHL, 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

was speaking to was one based on the exact amendment of Senator KOHL 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 issue, 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 since you object goes against 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 to the widow 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 not 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, they settled.

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 the money, gave 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, through the negligence of 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 of the law. 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 activity. I will read it again.

Section 449 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, whether innocent, negligent, 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 in your duty.

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, automobile 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 for this because no one intends to crash 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 black letter 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 impermissible. 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 behaviors—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 those 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 NRA, as we have to have this on one hand, and then allow all the good suits there, the really good suits, the ones, in fact, that have been filed. And it is not. It is designed to stop practically every attempt to be compensated for the negligence of a manufacturer, a gun dealer, or a trade association.

All of the particular aspects of the bill provide some window dressing—it sounds good, section XYZ of the United States Code—but when it doesn't work in practice, that is all it is. This explosion of suits, where are they? A small number of suits filed in this country involve anything covered by this legislation. The cost to the industry? This cost goes up $50 million every day we are here talking about it.

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 so they cannot easily be accessed 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. It is not because of lawsuits. 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 can recall as I entered the Army in 1967, 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 the national defense is unsupported, 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 them that their legislatures—that 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, DC, council that 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 we can step in and overturn 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. As my colleagues 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 would think we all would protect, not try to circumscribe and deny, and you cannot go into court with a theoretical complaint saying: I do not like 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, saying to State governments, 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 it relates to who Beretta is and what they do. They make the standard sidearm 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 combat 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 DC v. 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 criminal misuse of firearms. No 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 defense if the pistol or rifle was originally sold to a civilian consumer.

That is the essence of a lawsuit that has just been decided in the District.

Mr. REED. If the Senator will yield, I notice you read the letter, but 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 can prove it was a weapon manufactured by Beretta, and it was involved in a crime, they would be liable without a showing of duty or negligence and whether they took rational and reasonable steps. That is what strict liability is.

There is a difference 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 says that negligence 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. They are saying, 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 limiting strict liability suits, 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 the firearm makers, 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 can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

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 the industry had produced the gun that the criminal used in the commission 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 on this floor 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.
Accokeek, 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 makers, 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 can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which 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 firearm 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 seen 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 Maryland State Police, 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 in D.C. and additional hundreds 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 civilian customer.

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 magazines (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, even though it is 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. 397 and 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 urgently 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 through which 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 attorneys.

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 H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,

JEFFREY K. REH
General Counsel and Vice-General Manager.

Mr. CRAIG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1619, if possible.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. 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. He has just submitted it 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.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask 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. Certainly.

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 is the circumstance 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 67 Senators 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 community.

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—there were five children sitting in 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—but the Lemongello amendment I would like to offer to the gun immunity bill is about protecting police officers on the street and giving them the right to get justice in a court of law. If, by unfortunate circumstances, they are the victims of gun violence, we have the right in the State of New Jersey, within the legal system, to call to account those who have wrongfully allowed guns to get into the hands of criminals.

In the case of Detective Lemongello, 11 guns were sold to a gun trafficker out of a gunshop—11 guns. Why does one person happen to need 11 guns? These guns were bought by a straw-purchaser for a career criminal, who then put the guns in a car and drove them to New Jersey, where one was sold to the criminal who shot Detective Lemongello in Orange, NJ.

That gun was turned on this gentleman shown in this picture, Detective Lemongello, just as a gun was recently turned on the young police officer whose wake I recently attended in Newark on Monday night, Officer Dwayne Reeves. Officer Reeves was 31 years old, and he was married with five children.

I believe in the constitutional right of individuals to bear arms under circumstances that will protect the public. I have no argument with that. But I do not think there is a constitutional right to put guns into the hands of criminals who attack police officers and other innocent victims in our country.

I represent a State where crime rates are going down, but murder rates are going up because guns are freely available among gangs on the streets in our communities. This is completely unacceptable. And to allow gun trafficking to continue on, without giving the victims of gun violence the right to seek justice in a court of law, is just plain wrong. It should be enough for any individual with common sense to say: Enough is enough.

Prohibiting civil liability actions as this bill does—and I recognize that some may argue about limited exceptions to the general immunity given to the gun industry in this bill—would make it next to impossible for Detective Lemongello, his partner Officer McGuire, or the family of Officer Dwayne Reeves to have their day in court, to seek and receive justice through the American legal system.

So again, the purpose of my amendment is to 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 bill and my support for 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 prosecuting 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 and prosecution 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 them.

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 someone else, then 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 here, 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 someone illegally. That is something 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 manufacturers liable strictly for every crime 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. They 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 conducting 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. Both of these 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 caused by drug dealers and 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 hardcore 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 chiefs about these kind of crimes and the policies of my office to prosecute cases that they may be working on involving these kind of criminals. We enhanced our prosecutions.

Then I was elected to the Senate. I come in 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 ownership of guns. Pretty soon, 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 other kinds of sawed-off shotguns—that is a common case that used to be prosecuted, and I prosecuted lots of them. I personally tried sawed-off shotgun 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 the serial number erased. 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 out there.

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. We enforce that. It is enforced right now in Federal court.

So we had all these cases. And the other side, President Clinton and Vice President Gore, was declaring that if you did not support all these new restrictions on legitimate ownership of guns—these laws and regulations that they were putting up, one right after another; as soon as one passed, they would come up with another one—then you didn't believe in law enforcement, you didn't believe in fighting crime, that you were allowing murders to take place, that you didn't love children. We heard all that.

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 had 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 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 conducting 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 to be tried 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 felon and you carried a gun—we will prosecute you. You will be guaranteed a long time in jail without parole. You will be sent off 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 they are out using a gun in 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 pressure on, 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 and they have 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 doing a better 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 heavyhanded? 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 all ought to be excited.

Mr. President, I will conclude by saying we are doing some things right in law enforcement. Our law enforcement officers really are doing a fine job. We have turned the tide, in some ways. It is a mathematical thing. I have come to understand that.

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 considered, and people 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 deter them. The word is out in Philadelphia, Richmond, and Alabama that 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.

As the crime rate 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, we have trends 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 person 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 colleague 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 not permitting us to get this bill—this 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 that aside 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—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 or whether 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 goes out 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.

When 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 do with that gun. 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 negligent, or reckless in the way they are handling their records or weapons—no, come on, America, stand up and protect those gun manufacturers and dealers. The heck with the rest of 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 were here for some 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 is negligent in their behavior. I cannot get this. Negligence, gross negligence, recklessness, carelessness—in other words, you can behave any way you want. It is like calling out ''fire'' in a theater. You get punished for that. That is a crime. But for a gun 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 they feel about the Senate 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, JON CORZINE, the 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 pierce this wall 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 heard talks about 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 they sell 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 person a gun and get 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 is the last full year of statistics they have. According to the CDC, 2,867 children and teenagers died from gunshot incidents in the United States 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 is 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—parents, grandparents, brothers, 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, the families of 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, to really 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 protecting gunmakers, distributors, and dealers from legitimate legal redress for their careless or reckless behavior is more important than making sure our troops have the armor, the weapons and, as I said, the ammunition 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 problems they encounter, you shake your head and wonder, how can we 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 soldiers and their 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 troops don't get the appropriate practice of what to do when the convey 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 125-degree 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 one 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 shoving 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 result in people being killed.

Most American families would prefer we devote our time to the Stem Cell Research Enhancement Act of 2005, the stem cell bill that I am proud to cosponsor, which would expand Federal funding for embryonic stem cell research. There are many other issues.

When we look just at the stem cell situation, as many as 100 million Americans could benefit from stem cell research, but we don't do that. Stem cell research can help Americans living with diseases such as diabetes or asthma—which afflicts 9 million children under the age of 18, including one of my grandchildren—- cancer, Parkinson's disease, autism, spinal cord injury.

I find it amazing that the leadership of the Senate, a brilliant physician, the majority leader, is more concerned at this point with providing immunity for rogue gun dealers than giving a ray of hope to 100 million Americans who might benefit from stem cell research. Talk about misplaced priorities.

The Republican leadership in this Senate and this administration have lost touch with the priorities of the average family. What is the one thing that touches the life of every American every day? Transportation. We should have passed the highway bill 2 years ago. Once again, we are bogged down and the President is threatening to veto the highway bill if the final version is closer to the one passed by the Senate.

So we have a lot of debate, a lot of argument to go through. If it were up to the American people, they would pass a highway bill and veto this bill on gun violence immunity. The list of misplaced priorities goes on and on. We cannot address issues such as childcare and job training, but we can waste our time on gun violence immunity, and instead of letting a jury decide the merits of the case involving gun violence, Congress wants to give special protection to rogue gun dealers and restrict the right of all other Americans to plead their case before a judge and jury. That does not make sense.

When most Americans think about gun violence, they pray that their loved ones don't become a statistic. They are not looking to grant special legal immunity to the companies that sell guns. This bill is another example of the Republican leadership taking its marching orders from a rightwing special interest group and ignoring the interests of average families.

I don't know if this bill will pass, but I know one thing. If we spent our time addressing the issues that really matter to average families, this bill would never have seen the light of day. I hope the majority leader will take a cue from the American people and turn our attention to issues that matter to them—stem cell research, national defense, and transportation.

In fairness and equity, I have a disagreement with some of my friends in the Democratic Party also, and I urge them to put aside the time devoted to this gun immunity bill and let us get on with other issues.

Mr. President, I offer an amendment that poses a question to the Senate. The question is simple, Is it more important to protect our Nation's children or a special interest lobbying group? This bill gives immunity to the gun industry even when they are grossly negligent. What my amendment says is there should not be a blanket grant of immunity in cases in which a child is the victim.

How can we look a mother in the eye and tell her she cannot hold accountable the people who caused the death of her child? What the bill says now is that the parents of a child killed by gunfire when someone else is at fault cannot seek redress. What we are saying is, too bad about your child, but we cannot let you harm these friendly donors of ours.

I call up amendment No. 1620 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, we appreciate the Senator coming to the floor. I know he is committed to these issues and has been for a good number of years. We are reviewing the amendment now consistent with all of the amendments that are being submitted at this moment. We have not yet completed that review. We received the amendment about 25 or 30 minutes ago.

With that, I object to the unanimous consent request.

The PRESIDING OFFICER. The objection has been heard to the amendment.

The Senator from Rhode Island.

Mr. REED. Reserving my right to object—and I will not object, obviously—I know the Senator is looking carefully at these amendments. I make a point, I have served in the House of Representatives where there is a Rules Committee that looks at every amendment and decides what is coming to the floor. In the Senate that was never the practice. We are trying to be extremely cooperative and transparent in what 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 putting them up or down for consideration, but by Members voting. I do not object.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho is recognized.

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. Let me speak only 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 expenses involved as it relates to defending themselves in these frivolous lawsuits.

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 Center's wire story, obviously trying to knock down the claims of gun manufacturers in their support of the Protection of Lawful Commerce in Arms 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 amounts received from insurance carriers, relative to product liability and municipal litigation.''

As stated in our filing, the figure report reflects fees incurred over a 9-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. In fact, over the past 10 years, Smith & Wesson has spent millions of dollars defending itself against precisely the type of ''junk'' lawsuits that the legislation—

Referencing the legislation that is before us today—

is designed to prevent.

So they do openly support passage of the Protection of Lawful Commerce in Arms Act. They feel it is critical to not only the survival of Smith & Wesson but to the firearms industry of America.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMITH & WESSON,
Springfield, MA, July 26, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, U.S. Capitol Building, Washington, DC.

DEAR SENATOR FRIST: This letter is in response to the Brady Center's newswire released yesterday regarding the Protection of Lawful Commerce in Arms Act. The newswire was entitled ''The Biggest Lie Yet: Hoping to Ram Bill Through Senate, NRA Supporters Use Phony Scare Tactics, Says Brady Campaign.

In the article, the Brady Center attempts to minimize the financial implications that the numerous ''junk'' lawsuits have had on the firearms industry. 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 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 nine-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. In fact, 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.

Passage of Protection of Lawful Commerce in Arms Act is obviously critical to Smith & Wesson, the firearm industry, our nation's economy and America's hunting traditions and firearm freedoms. Thank you for your sponsorship of this very important piece of legislation.

Very truly yours,

MICHAEL F. GOLDEN,
President and CEO.

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. There 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 moments to discuss some of 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 are protected by the bill. Plaintiffs can still argue their cases for violations of law, breach of warranty, and knowing 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 dealers break 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 title of the bill. 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 do not alter but 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 new section expresses the reality that the bill actually strengthens federalism and protects interstate commerce. Thirty-three states have already forbidden lawsuits like the ones this bill seeks to eliminate. 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 liability action,'' 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 committed 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. This 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, fines, or penalties, or other relief . . .''. 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 lawsuits against the industry for damages resulting from a defective product. 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. 922y—and was injured by defective ammunition, the juvenile would still be able to bring a suit against the ammunition manufacturer.

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 stretch the concept of ''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 gun sellers, 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 bill. As we often find with 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. I hope we can move it quickly 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 the floor.

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 to listen to the comments of our colleague 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 colleague from Rhode Island.

I have witnessed a lot of people over 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 exercise his or her prerogatives 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 has been prevented from concluding consideration of the Defense authorization bill. We were making very 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, and to the 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 time, but never in less than 5 days of debate. 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. It is stunning that we would 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 a year or so ago 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.

In fact, I wrote a letter, with several other Members of this body, urging the leadership, as strongly as we felt about class action reform, not to set aside the Defense authorization bill in order to bring up the class action reform bill. That point of view prevailed and 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 in combat. They are under siege. They are enduring some of the harshest 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 those who would have put aside the Defense authorization bill to deal 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 business 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 at a time we are at war. What 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. I can only imagine what the reaction 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 the 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 their home: Colt Manufacturing, Sturm Ruger, U.S. Repeating Arms, Marlin Firearms, U.S. Firearms Manufacturing, Charter Arms, L.W. Seecamp, Wildey, 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 small State of Connecticut. These are good people. These are good companies. And I represent good people who work in this industry. We produce fabulous 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 that revolver became 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 Nation. 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 Senator's State 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 am proud of the work I 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 such an idea would be put forward by 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, and in a field in Pennsylvania. In fact, a year of gun violence in America nearly equals the number of Americans who died in the Korean war and almost half the Americans lost in the entire Vietnam conflict. The numbers are staggering. These numbers exceed by a huge margin the number of firearms-related deaths on a per capita basis in countries such as Canada, the United Kingdom, Germany, Japan, and France.

Among those individuals most affected by gun violence are children. Firearms are the second leading cause of death among young Americans age 19 and under. Approximately 2,700 children under the age of 19 are killed each year as a result of gun violence or the improper use of guns.

The rate of firearm deaths of children under the age of 14 is already 12 times higher in the United States than 25 other industrialized nations combined.

Let me repeat that. The firearms death rate of children under the age of 14 is 12 times higher in the United States than in 25 other industrialized nations in the world. One study noted the firearms injury epidemic among children is nearly 10 times larger than 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 unintentional shooting and $18,000 for each of the gun injuries. 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 these expenses? 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 while the American taxpayers pay 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 through our actions 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 gun violence victims, including law enforcement officers and their families, 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 serve to shield corrupt 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 avoid future gun-related 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, John Muhammad and John 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 banned 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 purchase.

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.

Gun shows are also 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 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.

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 burdening our court system. About 10 million tort suits were filed in State courts from 1993 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? And the result of those 57 cases. The impact on the gun industry has hardly been crushing. Some of these suits have been dismissed. Some have been settled. Some have been appealed.

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 out of 10 million tort cases being filed. That alone ought to tell you this is a frivolous piece of legislation. This is what is frivolous, 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 $4,535 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 we ought to take our time to do something about strengthening the police departments of our Nation. Rather than placing more guns on the streets, the Senate should be considering more responsible gun legislation such as making the ban on assault weapons permanent and closing the gun show loophole.

Rather than encouraging reasonable and safe gun use, the Senate is destroying any incentive for gun manufacturers to improve the safety of their deadly wares. This legislation, to this Senator, is an outrage. And, I represent more of these manufacturers than any other Member of this body. I know it is not common for a Senator to get up and speak against an industry in his State, and I have at least nine of them, as I said earlier, that have produced 25 million guns in the last 12 or 13 years. I respect my manufacturers. They are good people. But the idea that I would immunize nine industries in my State from their wrongdoings is incredible. While it may seem strange to have the Senator from the largest gun-producing State making these statements, I feel strongly. It is wrong to be doing it. It is an outrage.

You can say this is wrong, and we ought to be ashamed of ourselves for taking an entire industry and not holding it liable for the harm it may cause to people across the country. Thirty thousand people die every year, almost 3,000 kids, and we are about to say to the manufacturer of the products that kill them to take a walk and that you never have to show up again in court. That is shameful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I will be very brief.

Mr. President, in the context of what the Senator from Connecticut has said, let me read some statistics from the National Safety Council injury fact sheet. 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 other significant numbers that my colleagues would want to be aware of that are tremendously important. Total unintentional accidental deaths in America, 101,500 in 2003; motor vehicle deaths of that year, 44,000; falls at home and work and on the streets of America, 16,000; drownings, 13,000; fire and burns, 4,300; ingestion of food objects, 2,900; firearms was down into 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 and by responsible parents to teach their young people how to deal with firearms when they are either subject to them or find them in a location. These numbers are important in the context of this debate.

Again, this debate has nothing to do with crime on the street. This has everything to do with frivolous lawsuits against law-abiding citizens. I am afraid we have to start dealing with the criminal element instead of the law abiding.

I yield the floor.

Mr. DODD. Correct me if I am wrong, but I cited statistics between 1993 and 2003. There were 10 million lawsuits brought in the United States for wrongful death under the tort system. Of those 10 million, we have been able to find 57 in 10 years, 57 cases brought against gun manufacturers and gun dealers. Is the Senator telling me those are frivolous, 57 lawsuits out of 10 million? Is that a crisis in litigation?

Mr. CRAIG. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. CRAIG. What the Senator is saying, there have been 24 or 25 lawsuits filed against gun manufacturers and dealers by municipalities. Half of them have been thrown out of the courts as being frivolous.

Mr. DODD. So what is the problem?

Mr. CRAIG. The problem is, and the Senator well knows, this Congress has, from time to time when they have seen industries subjected to wrongful lawsuits, chosen to exempt them from the wrongful lawsuit but not from liability.

Mr. DODD. For 24 cases in 10 years?

Mr. CRAIG. And millions and millions and millions of dollars spent. I appreciate the Senator's mindset on this issue. He is fundamentally wrong, and that is why we have the legislation now to provide a very narrow scope of protection, but certainly not from malfunctioning, not from bad product, only from that third-party criminal issue.

I am sorry to say the Senator would disagree with me, but a person who manufacturers a firearm is not the criminal who pulls the trigger and therefore should not be liable for that criminal act.

Mr. DODD. You are going to have your way if this bill is adopted, but that is the only industry in America with this special status. You would not do it for the automobile or chemical industry.

Mr. CRAIG. We did it for aircraft industry some years ago because of frivolous lawsuits that nearly bankrupted them until Congress stepped in and said, No, in certain categories that is unfair, and it allowed them to stabilize their economy and continue to build aircraft for the American consumer.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I am concerned about what is going on in the Senate procedurally. This is the first time I can remember, during the tenure of Senator FRIST, we have had a bill where the so-called ''tree'' has been filled, allowing no amendments to be offered.

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 at the amendments offered by the Senator from Rhode Island and 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 on something that should be fairly 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 good 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 that during the tenure of this reviewing 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 his behalf and announcing to 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 Americans 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 all these 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 here.

But I want the Senate 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. Otherwise, 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. But 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 the work we have to do here 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 finally dispose of this bill. It can either 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 KOHL, which I offered on child safety locks. The floor manager and I have discussed this amendment. There are some technical concerns about it. But that is one.

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 posture 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 tree so no other amendments can be offered. I have never, ever known him to do this. It is so unusual. It is not in keeping with how he has done business

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 FRIST 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 authorization bill, working 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 our allies, 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 accomplishing that mission. This doesn't seem like much to ask for. After all, if we don't have a clear plan and timeframe, how can we even hold ourselves accountable for giving the military the tools they need to succeed in 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 drawing up timeframes 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 it is hard to conceive of an effective strategic plan that isn't linked to some timeframes. That is what the administration needs to share.

I want to respond directly to some of the criticisms I have heard of this approach.

Some have suggested that to question the path that we are on is to undermine our united commitment to support the courageous men and women who have been deployed in harm's way.

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 be accused of failing to support his fellow service men and women.

My support for our troops has not wavered one inch. And it will not. I did not support the administration's decision to go to war in Iraq, but I have consistently voted to provide our service men and women with the resources they need in Iraq. And I know that our troops have done, and continue to do, a remarkable job. The brave men and women of the U.S. Armed Forces deserve our admiration, our respect, and our unflagging support. 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 will make it more and more difficult for many Iraqis to accept a massive foreign troop presence on soil—something that they regard as a humiliation. 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, Iraqi 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 education in 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 most of al-Qaida's new model of supporting loosely affiliated franchise-type organizations. Press reports suggest that the CIA is calling this emerging threat the ''class of '05 problem.'' All of us, on both sides of the aisle, should be thinking about how to ensure that there is no similar class of '06.

It would be nice to believe that these terrorists will be swept into Iraq only to be annihilated by U.S. forces. But that kind of ''roach motel'' approach to fighting is hardly a strategic vision. At its best, it is wishful thinking, and more wishful thinking is just what our Iraq policy and our strategy for fighting terrorism do not need. I agree wholeheartedly with the President that we must not waver in our commitment to defeating the terrorist networks that wish to do us harm. And I know, as he must know, that these networks exist around the world. Fighting terrorists in Baghdad does not mean that we won't have to fight them elsewhere. Sadly, we need only look at the headlines over the past few weeks to find the terrible evidence of this hard fact.

I am gravely concerned that not only are our enemies gaining strength under the administration's current policies. I am concerned that we are getting weaker. The U.S. Army is being hollowed out by the administration's policies. The Army is straining to maintain the cycle of rotations and training that we know it needs to sustain its capacities, and recruitment efforts have been in serious trouble for some time now. Meanwhile, costs for the Future Combat System—a system that depends on technology that is not yet even developed—spiral out of control. We cannot stand by and allow the U.S. Army to be broken. We cannot stay this course.

The current course of action simply is not inspiring confidence among the American people. I know that my constituents are terribly troubled by the

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 in achieving its goals without 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 common criticism 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 ''lifeline'' to the insurgents, then why wouldn't they try to induce us to throw them that lifeline?

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 will not be 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 last a decade or more, and that ultimately, ''foreign forces are not going to repress that insurgency,'' rather it is going to be defeated by the Iraqis themselves. I think this analysis makes good sense, especially given the fact that our very presence in Iraq is helping to recruit more foreign jihadists every day. But the Secretary's candor made waves, because for long, costly months we lacked clarity on this critical point regarding just what the remaining U.S. military mission is in Iraq. Is it to defeat the insurgency, or is it to give the Iraqis the tools to do that themselves?

If the remaining military mission is to train Iraqis to provide for their own security, we ought to be able to articulate a clear plan for getting that job done. If we know how many troops we need to train, and we know how long it takes to train effectively, then we ought to have some sense of how long it will take to accomplish our mission.

When I was in Baghdad in February, a senior coalition officer told me that he believes the U.S. could ''take the wind out of the sails of the insurgents'' by providing a clear, public plan and timeframe for the remaining U.S. mission. He thought very clearly, that this could rob them of their recruiting momentum. I also think it could rob them of some unity. All reports indicate that the forces fighting U.S. troops and attacking Iraqi police, soldiers, and civilians are a disparate bunch with different agendas, from embittered former regime elements to foreign fighters. The one thing that unites them is opposition to America's presence in Iraq. Remove that factor, and we may see a more divided, less effective, more easily defeated insurgency.

Intense American diplomatic and political engagement in and support for Iraq will likely last long after the troops' mission is accomplished and they are withdrawn. I expect that we will continue some important degree of military and security cooperation with the Iraqis, as we work with them and with others around the world to combat terrorist networks, whether they are operating in Iraq or Afghanistan or England. And we have to be working diligently to combat a burgeoning culture of corruption in Iraq, or the rule of law doesn't stand a chance. We need to make reconstruction work and deliver real democracy dividends for the Iraqi people. The situation in Iraq is complex, and it requires a long-term political commitment from the U.S. What my resolution addresses is just one piece of the puzzle for achieving our interests in Iraq and helping the people of Iraq and the region move toward a more stable future.

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 CRAIG, 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 correct a significant injustice 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 the 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 lawsuits that have only one goal—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 independence. We are proud of our outdoor heritage. Montanans are avid sports men 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 Aid to Wildlife Restoration 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 sportsmen generated $250 million in retail sales, generating about 5,592 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. Others require a prohibition on sales to dealers who are not stocking dealers with at least $250,000 in inventory, talking about the small gun

dealers. Others would require systematic monitoring of dealers' practices by manufacturers and distributors.

These are just a few of the sweeping demands made in the lawsuits that the Protection of Lawful Commerce in Arms Act seeks to stop. As you can tell, these suits are asking the courts to step well outside of their jurisdiction, to legislate regulation of the industry. They also have nothing to do with holding accountable those who actually misuse the firearms.

Most courts have dismissed such lawsuits that are brought before them. A New York appellate court judge stated:

> The plain fact is that the courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate or micromanage the manufacturing, marketing, distribution, and sale of handguns.

However, the time, expense, and effort that goes into defending these nuisance suits is a significant drain on the firearms industry, costing jobs and millions of dollars, increasing business operating costs, including skyrocketing insurance costs, and threatening to put dealers and manufacturers out of business. That is why this bill is so necessary.

Let me be clear about a couple the things. This bill will not close the courthouse doors to legitimate suits against the firearms industry. It will not shield the industry from its own wrongdoing or from its negligence or if the industry puts out a bad product. For example, the bill will not require dismissal of a lawsuit if a member of the industry breaks the law or if someone in the industry acts negligently in supplying a firearm to someone they have reason to believe is likely to misuse the firearm or supplies a firearm to someone they had reason to know was barred by Federal law from owning a firearm or a representative of the industry who designs a defective product. The bill also doesn't protect unlicensed dealers. The bill would only protect federally licensed manufacturers, dealers, or importers of firearms.

This bill is only intended to protect law-abiding members of the firearms industry from nuisance suits that have no basis in current law, that are only intended to regulate the industry or harass the industry or put it out of business, none of which are appropriate purposes for a lawsuit.

Certainly, regulating the industry is well outside the appropriate role of the courts.

We could all agree that when a firearm is used in a criminal or careless manner that causes serious injury or loss of life, that is a terrible tragedy. Those responsible should be punished to the full extent of the law in both the civil and criminal areas. That includes the firearms industry, if one of its members breaks the law or acts negligently in selling a firearm to a criminal or other person they should have known would use the firearm to hurt another person. The Protection of Lawful Commerce in Arms Act will do nothing to change that or shield the arms industry from criminal wrongdoing.

At the same time, it is not right or fair to hold law-abiding members of the industry accountable 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 and that gun is then stolen from a customer 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 hidden in it. It is also 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 about $16,600, 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 $1,500 for every vehicle it produces. 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 industrialized 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 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 $6.2 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 $2,300 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 car makers sold low-cost, 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 higher 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 better. 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 Britain. And all of those countries spend less per person on health care than do we.

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 system 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—if 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 paperwork—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, science and surgeries.

But we have not complemented this innovation with the proper use of health information technology. The staggering cost of administering American's pen and paper system of health care claims proves the point.

Mr. President, 30 to 40 percent of American 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 administering 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—and nobody disputed this—that the equivalent of two 747s 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 747s 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 are talking about drugs. 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.

The inability 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 he goes to see a doctor, 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 Louisiana doctor in that hospital could push a button and my Montanan's health care 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 spends $50,000 more for the average 65-year-old in Miami than for the average 65-year-old in Minneapolis, MN—$50,000 more per beneficiary in Miami than in Minneapolis, MN. You might ask, why is that? In their last 6 months of life, Medicare beneficiaries in Miami visited specialists six times more often than those in Minneapolis. You might say, they are healthier; more is spent on them. Or they go because there are more specialists in Miami compared to Minneapolis. But that is not what is happening.

By using health IT appropriately, we can reduce error and duplication and overuse of services. We can also coordinate senior care to ensure that they receive adequate preventive care and management for their chronic conditions. In fact, patients who see primary care physicians in Minneapolis tend to be healthier, where fewer dollars are spent, than do seniors in Miami who see more specialists. That is counter-intuitive, but that is the fact.

Why is America falling behind in health information technology? Part of the reason is lack of investment. The health care industry invests only about 2 percent of its revenues in health information technology. Other information-intensive industries invest about 10 percent. Think of the banking industry.

As a result, many health practitioners in America have limited information technology capability. In Britain, nearly all general practitioners—98 percent—have a computer somewhere in their office. In America, extremely few small physician practices—just 5 percent—use anything but a pen and paper.

We have to help ensure that health information systems can communicate with one another. We need an agreed-upon set of standards so that health information technology systems can work together. Otherwise, we will have a Tower of Babel preventing communication of critical health information.

We can do better, and that is why I have worked with my colleagues on the Finance Committee and on the HELP Committee to introduce the Better Healthcare Through Information Technology Act, a bill which facilitates nationwide adoption of information technologies in the health care field. It will help those systems to talk to one another, it will set up loans and grants to encourage the use of more health IT, and it will help us to improve health care quality.

We need to emphasize quality care. Medicare is the dominant care in America's health system, but Medicare is 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 $5,000 per year 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.

States such as 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 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 four-door luxury sedan, began rolling off the assembly line. The price was expensive at that time, starting at $13,000.

Like the automotive industry, health care has come a long way in the last century. And like the automotive industry, health care needs to adjust and adjust dramatically to change. If we invest in health IT and start paying for health care quality, we can help both the American automobile industry and the American health care system to keep moving forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, in a moment or two, I am going to propound a unanimous-consent request while the manager is here. Before I do that, I congratulate the Senator from Montana for his analysis of health care costs in relationship to the manufacturing situation in which we find ourselves.

He has pointed out something which is critically important, which is that of all the competition faced by American manufacturers, one of the competitive disadvantages we put them in is the health care system we have compared to the health care systems their competitors have, leading to, for instance, in the automotive area, a disadvantage of something like $1,000 or $1,500 a car.

I congratulate him for his efforts in this particular area and many other areas as well.

I have one little minor note, and that is, the Senator from Montana is currently looking at the proud owner of a Ford hybrid. So America now is manufacturing hybrids.

Mr. BAUCUS. And may Ford produce many more.

Mr. LEVIN. May they produce many more. I thank the Senator from Montana.

Mr. President, I want to for a couple minutes comment on the bill and then make a unanimous-consent request that the amendment I will offer be in order and that other amendments be laid aside. But first a moment or two of commentary.

The bill before us, S. 397, says that its purpose is ''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''—and here are the keywords—''from the misuse of their products by others.''

On page 3, in section 2, findings and purposes, finding No. 6 is:

> The possibility of imposing liability on an entire industry for harm that is solely—

And that is the keyword—

> solely caused by others is an abuse of the legal system. . . .

I happen to agree with that. If harm is solely caused by others, it would be an abuse of the legal system to impose liability on someone who did not contribute to somebody else's damage.

My amendment would make it clear, and I will just read one paragraph from my amendment:

> That 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 that person was a proximate cause of death or injury.

What my amendment would do is basically take the words that are in the stated purpose of this bill, which is that it is wrong that anyone have liability imposed on them for harm that is solely caused by others, and say that basically I accept that premise.

The problem with the bill is that it does not or could not or might not allow for damages to be imposed where someone's own reckless or gross misconduct is a cause, a proximate cause, or contributes to damages which others have.

This is an important part of this bill. We have a number of exceptions in the bill which are set forth. If somebody negligently entrusts a weapon to somebody else knowing that person will misuse it or if there is a violation of law or there are two other allowed lawsuits, but we surely should allow a lawsuit, particularly if State law allows it—and that is the key—but if State law allows the lawsuit, which most States do, against a person whose own gross negligence, whose own recklessness is a proximate cause of somebody else's damages, we should not prevent advertently or inadvertently that cause of action from being brought. State law would be displaced by this bill. This is a radical departure in terms of tort liability because it would displace State law.

The traditional role of the States in tort liability would be displaced in this instance, and I think it is important that we take the language that this bill says in its purpose is the purpose of the bill—that where harm is solely caused by others, that we should not allow liability to be imposed on some person who had no contributing cause or was not a contributing cause—it takes that stated purpose and puts into amendment form ''that nothing in this act would be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or own reckless conduct was a proximate cause of the death or injury.''

That is the explanation of my amendment. Now, with the manager's attention, I ask unanimous consent that the pending amendment be laid aside so that my amendment No. 1623, which I believe has been at the desk for a number of hours, be in order.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object, my colleague is most sincere in his effort. We received the amendment about 30 minutes ago. We are taking a look at it now. I remind my colleagues, Senator LEVIN offered a similar amendment last year that dealt with gross negligence and reckless conduct.

I must say, my frustration with these kinds of amendments are that these are not well-defined terms. There are thousands, if not millions, of pages of case law that have attempted to define them, but not successfully.

I suggest to the Senator, he refers to State law and State venue. Thirty-three States have already very specifically restricted liability in the context of what we are attempting to do here. Thirty-three States have already spoken. We did table this amendment last year by a fairly substantial margin. So at this time, until I have had a chance to review——

Mr. LEVIN. I wonder if the Senator will withhold that objection for 30 more seconds so I can respond to one point the good Senator said.

Mr. CRAIG. I will.

Mr. LEVIN. The term ''gross negligence'' is defined in my amendment as the term is defined in 42 United States Code 1791(B), and the term ''reckless'' has the meaning given under section 2(A)1.4 of the Federal Sentencing Guidelines. So we do define both terms very precisely as they are already defined in two laws.

I appreciate the Senator withholding his objection at this time so I could make that statement. I yield the floor.

Mr. CRAIG. Mr. President, I do appreciate the Senator's effort, but at this time, until we have effectively reviewed the amendment, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

TRADE

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. I have come to the Senate floor to speak about trade issues, but I especially want to discuss 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 sufficient to pass 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 wavering House Members to vote for this awful trade agreement. It 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 that they 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 this company which is what 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 Bicycles. Huffy Bicycles 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-Mart, Kmart, and Sears Roebuck. 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 bicycles in China, 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 plant in Shenzhen, China. That plant is located in the very same Chinese city where Wal-Mart held its annual board meeting last year. Eight hundred fifty workers got fired by Huffy, and they earned $11 an hour, plus benefits. The company felt that was way too much money to pay people to build bicycles.

Now those employees were not getting wealthy but they liked their jobs. I have talked to some of them. They enjoyed working at Huffy. Many of them worked there for a lifetime, but their jobs went to a plant in Shenzhen, China. The workers there make 33 cents an hour. They work 15-hour shifts, according to the reports from those who visited the plants, they work from 7 a.m. until 11 p.m., 7 days a week. They are housed in crowded barracks and fed two meals a day. They have no health benefits, and when they get sick, as many do, they are fired. If, of course, they tried to organize—there is no evidence that these workers tried to organize—they not only would be fired, but precedent would suggest some of them would be sent to prison for organizing for workers' rights.

Even though the jobs are gone, the bicycles are still sold in America, made in China but sold in America. Now, Huffy wants to become a Chinese company. The vice president of the Chinese company that is planning to buy Huffy said this:

> We look forward to Huffy's future growth as one of America's leading bicycle brands . . .

Notice he did not say one of America's leading bicycles because those bicycles are not made here any more, just ''one of America's leading bicycle brands.''

Meanwhile, the U.S. workers who lost their jobs read this in the Dayton Daily News: Huffy to quit paying pension benefits and become a Chinese company.

This is a letter that former Huffy employees received a couple of weeks ago. I obtained a copy of this letter from a former Huffy Corporation worker in Ohio with whom I spoke yesterday. This says that as a result of its Chapter XI, Huffy will be filing a motion asking the U.S. Bankruptcy Court to approve a distress termination of the Huffy retirement plan. If approved, the PBGC, Pension Benefit Guaranty Corporation, the Government agency that ensures these plans, will take over. It says: You are still going to get your benefits. That will not be affected by this action. It is just that the PBGC, or the American taxpayer, the Federal Government, will pay your retirement.

Then, down in the other portion, it says, but some may lose a portion of their retirement. You may not get all of your retirement.

So they want to become a Chinese company, make all their bikes in China, sell their bikes in America and pawn off pensions that were promised to workers who used to work for Huffy to the Pension Benefit Guaranty Corporation, 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 their job, were proud of the work they did, and now they are worried sick. Many older workers could only find low-wage jobs after being laid off and losing their jobs to China, so they were counting on their pensions to be there.

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, when the workers at the plant in Celina, OH, lost their jobs, on the last day of work, as those employees left the parking lot for the last time, they left a pair of shoes in the place where their car had been parked. So when the last car left the lot, there was a 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 breakfast 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 now in Celina. 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 bicycles 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 of Labor 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 number of employees. 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 because by a handful of votes 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 South have all of these sayings, 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 over the conditions of production. We became the most productive country in the world. We are the world's leading economic power and military power. But we will not long remain the world's leading economic power without our major manufacturing base, and that manufacturing base is shrinking dramatically. Again, nobody seems to care very much.

I have introduced legislation to address this. We get blocked. It cannot even come to the Senate floor, regrettably. When the next trade agreement comes to the floor that does exactly the same thing and sets up American workers against unfair foreign competition, this Congress embraces it like a teddy bear.

In September, I intend to provide three or four lengthier discussions about international trade and talk about the specifics and remedies. Today, on the eve of the CAFTA vote in the House, I wished to call the attention of my colleagues to this company's story. It is so symbolic of the failure of our trade policy.

My hope is that perhaps, instead of talking about the general and instead of talking about the theory of it all, perhaps we can start thinking about and talking about real Americans who go to work every morning proud of their jobs, and who believe that this country they have inherited ought to give them an opportunity to do well if they play by the rules and do the things that are necessary.

The Pledge of Allegiance is not said everywhere these days. There is a pledge in the board room, and a pledge to profits, but not necessarily a pledge to this country's long-term economic health. I hope very much that is going to change, and I hope that the circumstances that existed for these employees will one day call to action the conscience of this Congress, and that it will say, this ought not to continue, this country can do better than that.

These people in this company, similar to the people in so many other companies I have talked about, did not lose their jobs and were not fired because they were not good Americans. It is because they could not compete against 30-cent labor, and they could not compete against a country that says: Try to organize, and we will fire you. They could not compete against a country that says to companies: Come on in, build your plants here and dump your chemicals into the streams and into the air. They could not compete against a country that says: Come on in and put your workers in an unsafe plant because we are not going to have OSHA here, and we are not going to enforce safe workplaces. We cannot compete against countries in which little kids are taken into a workplace at ages 9, 10, 11, and 12 and locked into that workplace, and where then the work product comes out and goes to the shelves of stores in Fargo or Toledo or St. Louis, and then the American worker is told: Compete with that, compete with, that; if you cannot, you lose your job.

That is not the way we built this country. It is not the way Congress should allow this trade strategy to continue. It is my hope that at some point, some way, somehow in the days ahead we will be able to take action on the floor of the Senate and further strengthen this country's long-term opportunities, help rebuild a manufacturing base, and give people the opportunity in this country, and the belief in this country there is an opportunity, for them and their families to have a good job that pays well, with job security.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

The Senator from Idaho is recognized.

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.

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 situation of the managing 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.

In my view, measured, balanced reforms to our tort system can address very real problems. That is the purpose of this amendment.

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 planes more than 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. It is important to note, however, that immunity does not apply in cases of gross negligence or intentional misconduct.

In 2001, Congress passed the Paul Coverdell Teacher Protection Act. What a wonderful man Senator Coverdell was. I so cherish the memories, having served with him here in this Chamber. This measure provided teachers with immunity from negligence lawsuits when teachers' actions are legal and in furtherance of efforts to control classroom discipline. The act did not immunize teachers from lawsuits claiming gross negligence or reckless or willful misconduct. So we see there has been a slow evolution of the law so that you don't give absolute immunity, but immunity that is in a balanced way. That is the purpose of my amendment.

In my view, the proponents of the gun immunity bill have undoubtedly acted in good faith by trying to respond to another very real problem. Without question, the gun industry in America is under legal siege, fighting lawsuits, many of them frivolous, all over the country.

I will have a letter printed in the RECORD from a gun manufacturer in my State who indicates the seriousness of this problem and the likelihood that the facility in Virginia may not survive unless some protection is given to the manufacturing industry. I strongly support protection to the manufacturing industry as provided in this bill.

My amendment goes to another provision in the bill, which I will enumerate momentarily.

I ask unanimous consent this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. The costs incurred by the gun industry in defending these lawsuits is staggering. Indeed, the costs are so great that Beretta USA, an American company that supplies weapons for the U.S. Armed Forces, has written to me claiming that their "ability to continue operations is threatened by these lawsuits." That is from the letter I placed in the RECORD.

Without a doubt, I think some reasonable measure of tort reform is necessary to protect the manufacturers. However, I must say I am deeply concerned about the broad scope of this litigation in other areas. In my view, it will undoubtedly have unintended consequences, but it is likely that we in the Senate will not be able to recognize some of these inequities until they occur. However, experiences in my State of Virginia make it clear to me that there is currently one unintended consequence in the bill as drafted that, if not corrected now, could impose a glaring inequity.

It is absolutely clear that this bill, if it had become law in a previous Congress, would have prevented certain lawsuits brought by victims of the snipers who wreaked havoc in the 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 these were the facts that were developed in this case.

In my view, gun dealers such as this one, which at best have an established history of irresponsibility of securing its firearm inventory and at worst show signs of illegal activity in 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 lost 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 in 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

simply says if a gun dealer has an established history of lost or stolen guns as defined by the Attorney General of the United States, and the lost or stolen gun is used in a way that causes death or injury to another, then that lawsuit would not be barred from its outset from going forward by the legislation now before the Senate.

In sum, this Warner amendment, which is based on the very real instances in the Virginia, DC, and Maryland sniper cases, makes it clear that irresponsible gun dealers will not be given a free pass by the Congress. It is a narrowly tailored amendment that will directly address a very real scenario. I would like at this time to read the language of the bill, together with my amendment.

I go to a section of the bill. I refer colleagues to page 8 of S. 397, copies of which are on each Senator's desk. It provides as follows:

An action brought against a seller for negligent entrustment or negligence per se. . . .

I would add the following to it. My amendment reads: ''On page 8, line 21''—that is the line to which I have drawn the attention of the Senate—''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—

That is the Attorney General of the United States—

—for an injury or death caused by a qualified product that was in the possession of the seller, but subsequently lost or stolen.

That provides, I think, and reposes in the proper authority the responsibility to look at these cases and determine what has, in fact, been the record of this dealer.

As I understand it, the ATF keeps certain records, and other records are kept, perhaps, by the States to determine how this gun dealer conducted its business. The regulations would spell out the criteria, first of their record, and then how this weapon was stolen. So, in my judgment, I think it strengthens the legislation. If it is a case, as I say, such as the sniper case in Virginia and Maryland—it captivated with fear the people in this region. I think it is our duty, in drawing up this legislation, to ensure we are doing everything possible not to have a repetition of that chapter.

I remember it so well because I was heavily involved with others in it. Certainly it was in my State. People didn't go out at night. People didn't go to gas stations; they didn't go to the market. They lived in fear, and it was a serious impact on the economy in this region, not to mention the tragedy of the loss of life and injury inflicted by these two extraordinary criminal individuals who had obtained a gun in the State of Washington from a dealer who had a horrible record, a record which on its face spelled out the highest degree of negligence.

So I ask the managers, at the appropriate time, if I may bring up this amendment, and I entrust to them a sense of fairness.

Mr. CRAIG. Will the Senator yield.

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 wisdom of the Presiding Officer and the Parliamentarian and at some point in time that judgment can be made.

I yield the floor to my good friend.

Mr. CRAIG. I thank the Senator from Virginia. I know he is sincere in the offering of this amendment. Of course, it will be reviewed by the Parliamentarian as to its germaneness postcloture. I would ask the Senator and his staff to examine the Frist amendment that was laid down and that is now pending because what we attempt to do by that amendment is to send a message, if you will, downline to federally licensed firearms dealers that there is no forgiveness here to bad faith and/or to the misuse or the misconduct within the current Federal statutes. We are examining now, but clearly that Washington dealer that the Senator referred to—

Mr. WARNER. Washington State.

Mr. CRAIG. Washington State dealer the Senator referred to—yes, there are no gun dealers in Washington, this city—those were actions in violation of 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 law 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 in the end because 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.

EXHIBIT 1

BERETTA U.S.A. CORP.,
BERETTA DRIVE,
Accokeek, MD, May 11, 2005.

Hon. RICHARD B. CHENEY,
Vice President of the United States, Eisenhower Executive Office Building, 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 makers, 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 can sue firearm manufacturers simply to determine whether that company's firearm was used in the victim's shooting.

It is unlawful to possess most firearms in the District (including semiautomatic pistols) and it is unlawful to assault someone using a firearm. Notwithstanding these two criminal acts, neither of which 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 firearm 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 seen 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 Maryland State Police, 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 in D.C. and additional hundreds 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 civilian customer.

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 ''machineguns'' in the statute includes semiautomatic firearms capable of holding more than 12 rounds. Since any magazine-fed firearm is capable of receiving magazines (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, even though it is semi-automatic and even if it did not hold 12 rounds at the time of its misuse.

The Protection of Lawful Commerce in Arms Act (S. 397. 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, distributions and dealers of firearms for criminal misuse of their products over which they have no control.

We urgently 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 through which 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 attorneys.

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 H.R. 800 might provide our only other chance at survival.

Sincerest and respectful regards,

JEFFREY K. REH,

General Counsel and Vice-General Manager.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I think if Senator REID is ready, I am ready to propound a unanimous consent request.

Mr. REED. I am. Go ahead.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside and that Senator REED then be recognized in order to call up amendment No. 1626 on behalf of Senator KOHL; provided further that on Wednesday there be 1 hour equally divided for debate in relation to the Kohl amendment and that following the use or yielding back of time, the Senate proceed to a vote in relation to the Kohl amendment, with no amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I should say, yes, I would amend that unanimous consent to say Thursday, not Wednesday.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. CRAIG. If the Senator wishes to make brief remarks, then I would put the Senate in morning business.

Mr. REED. I will bring up the amendment and make brief remarks.

Mr. CRAIG. Surely.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1626

Mr. REED. Mr. President, I will call up amendment 1626 on behalf of Senator KOHL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator 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 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.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or 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)) for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A)(i) the manufacture 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

''(ii) 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 on or off duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a 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);

''(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 in the exceptions stated in section 923(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 with the handgun, shall be entitled to immunity from a qualified civil liability action.

''(B) PROSPECTIVE 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 any 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—

''(I) 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

''(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(B) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, 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 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) 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.''.

(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 compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or 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(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 looking at a situation where 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 KOHL for his authorship 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, preventing it from being used. 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 this amendment. I am delighted that tomorrow morning we will get a chance for further debate and a vote on this amendment.

I yield my time.

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 have 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 gun dealers who have an established history of repeatedly losing guns or have an established history of firearms being stolen again and again from their inventory. If enacted without my amendment, S. 397 could cause the relatively small number of irresponsible gun deales 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 I think it 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—falsely, 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 laws. 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 worker ends up getting creamed in the process.

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 pensions cannot be hidden under 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 $15 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 $6.6 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 $38 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, 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 that has been gushing millions 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 in the Senate 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 town meetings and ask, how is it that the executives get off scot-free with respect to these pension issues while we are getting clobbered? I am tired of reading about how the executives have somehow been able, under the guise of deferred compensation or special retirement benefits that are protected from 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 where executives get protected and workers get hurt, 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 Taylors' 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 stepped 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 Ozell 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 with country values. Being an old farmer's daughter myself, I can vouch for the fact that there is nothing wrong with that.

Thousands of Arkansans traveled to Las Vegas to support their local hero. Chants of J.T. and the calling of the hogs could be heard throughout the fight as Jermain outworked and outboxed his opponent.

TRIBUTE TO JACKSON T. ''JACK'' STEPHENS

Mrs. LINCOLN. Mr. President, I also now go to a sadder note and rise to pay tribute to a fallen pillar of the Arkansas business and philanthropy community, Mr. Jack Stephens. Jack passed away quietly at his home on Saturday, July 23, after a period of illness. He has been remarked to have been one of the most incredible businessmen in his lifetime. We have truly lost a visionary businessman who invested in hundreds of Arkansas companies, many of which became leaders in their industry.

He also became one of my home State's most active philanthropists, never forgetting his humble roots and the value of rural life. Jackson T. Stephens was born during the Roaring Twenties and was raised during the Great Depression on a farm in south central Arkansas. He picked cotton and worked a mule on the farm before taking jobs in nearby Hope, AR, during his teens.

The Depression helped to shape a generation of Americans who valued every penny and deeply respected the opportunities that freedom brings, the opportunity to earn a living and 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 that 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. The two of them built 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 benefactor 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 innovative 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. He understood 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 $20 million to the University of Arkansas at Little Rock for a special events 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 ethics, its values, 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

I ask unanimous consent that a document entitled ''Description and Technical Explanation of the Conference Agreement of H.R. 6, Title XIII, ''Energy Tax Incentives Act of 2005,'' prepared by the Joint Committee on Taxation, dated July 27, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION AND TECHNICAL EXPLANATION OF THE CONFERENCE AGREEMENT OF H.R. 6, TITLE XIII, ''ENERGY TAX INCENTIVES ACT OF 2005''

A. ENERGY INFRASTRUCTURE TAX INCENTIVES

1. Natural gas gathering lines treated as seven-year property (sec. 1301 of the House bill, sec. 1326 of the conference agreement, and sec. 168 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. 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, describing pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. Asset class 13.2, describing 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 owned by nonprocedures fall within the scope of Asset class 13.2 (i.e., seven-year recovery period). The appellate court in each case reversed a lower court holding that natural gas gathering lines owned by nonproducers fall within the scope of Asset class 46.0 (i.e., 15-year recovery period). The IRS has not yet indicated whether it acquiesces in the result in these three appellate decisions in cases arising in other circuits.

HOUSE BILL

The House bill establishes a statutory seven-year recovery period and a class life of 14 years for natural gas gathering lines. In addition, no adjustment will be made to the allowable amount of depreciation with respect to this property for purposes of computing a taxpayer's alternative minimum taxable income. A natural gas gathering line is defined to include any pipe, equipment, and appurtenance that is (1) determined to be a gathering line by the Federal Energy Regulatory Commission, or (2) used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches (a) 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. No inference is intended as to the proper treatment of natural gas gathering lines placed in service on or before April 11, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision requires that the original use of the property begin with the taxpayer. The provision does not apply to property with respect to which the taxpayer (or a related party) had a binding acquisition contract on or before April 11, 2005.

2. Natural gas distribution lines treated a fifteen-year property (sec. 1302 of the House bill, sec. 1515 of the Senate amendment, sec. 1325 of the conference agreement, and sec. 168 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. 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 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. 1301 of the House bill, sec. 1308 of the conference agreement, and sec. 168 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 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 at 69 or more kilovolts 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 House bill provision is effective for property placed in service after April 11, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill, except that the provision does not apply to property which is the subject of a binding contract on or before April 11, 2005.

4. Amortization of atmospheric pollution control facilities (sec. 1304 of the House bill, sec. 1309 of the conference agreement, and sec. 169 of the Code)

PRESENT LAW

In general, a taxpayer may elect to recover the cost of any certified pollution control facility over a period of 60 months. A certified pollution control facility is defined as a new, identifiable treatment facility which (1) is used in connection with a plant in operation before January 1, 1976, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes or heat; and (2) does not lead to a significant increase in output or capacity, a significant extension of useful life, a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility. Certification is required by appropriate State and Federal authorities that the facility complies with appropriate standards.

For a pollution control facility with a useful life greater than 15 years, only the portion of the basis attributable to the first 15 years is eligible to be amortized over a 60-month period. In addition, a corporate taxpayer must reduce the amount of basis otherwise eligible for the 60-month recovery by 20 percent. The amount of basis not eligible for 60-month amortization is depreciable under the regular tax rules for depreciation.

HOUSE BILL

The House bill expands the provision allowing a taxpayer to recover the cost of certain certified air pollution control facilities (but not water pollution control facilities) over 60 months by repealing the requirement that only certified pollution control facilities used in connection with a plant in operation before January 1, 1976 qualify. Under the House bill, a certified air pollution control facility which used in connection with an electric generation plant which is primarily coal fired will be eligible for 60-month amortization regardless of whether the associated plant or other property was in operation prior to January 1, 1976. In the case of a facility used in connection with a plant or other property not in operation before January 1, 1976, the facility must be property that either (i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 11, 2005 (to the extent of the portion of the basis properly attributable to the construction, reconstruction, or erection after that date), or (ii) is acquired after April 11, 2005, if the original use of the property commences with the taxpayer after that date. The House bill does not change the present-law rules relating to corporate taxpayers or to pollution control facilities with a useful life greater than 15 years, and the House bill does not modify in any way the treatment of water pollution control facilities.

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, 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 Btu 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 geopressured brine, Devonian shale, coal seams, tight formations, or biomass; and

liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

Generally, the section 29 credit has expired, except for certain biomass gas and synthetic fuels sold before January 1, 2008, and produced at facilities placed in service after December 31, 1992, and before July 1, 1998.

The section 29 credit may not exceed the excess of the regular 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 (sec. 38). Generally, the general business credit may not exceed the excess of the taxpayer's net income tax over the greater of the taxpayer's tentative minimum tax or 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. General business credits in excess of this limitation may be carried back one year and forward up to 20 years. The section 29 credit is not part of the general business credit.

The section 29 credit includes definitional cross-references and a credit limitation relating to the Natural Gas Policy Act of 1978. The Natural Gas Policy Act of 1978 has been repealed.

HOUSE BILL

The provision makes the credit for producing fuel from a non-conventional source part of the general business credit. Thus, the credit for producing fuel from a non-conventional source will be subject to the limitations applicable to the general business credit. Any unused credits may be carried back one year and forward 20 years.

The provision also makes certain clerical changes in cross-references to the Natural Gas Policy Act of 1978, which has been repealed.

Effective date.—The provision applies to credits determined for taxable years ending after December 31, 2005. The clerical changes are effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House provision with modifications. In addition to 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 before January 1, 1993, or after June 30, 1998, and before January 1, 2010. The conferees understand that a single facility for the production of coke or coke gas is generally composed of multiple coke ovens or similar structures.

The production credit may be claimed with respect to coke and coke gas produced and sold during the period beginning on the later of January 1, 2006, or the date such facility is placed in service and ending on the date which is four years after such period began. The amount of credit-eligible coke produced may not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. 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 Code section 29(g) is not eligible 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. 1306 of the House bill, sec. 1310 of 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''), when tax issues regarding the time value of money were addressed generally. Under general tax accounting rules, a deduction for accrual basis taxpayers is deferred until there is economic performance for the item for which the deduction is claimed. However, the 1984 Act contains an exception under which a taxpayer responsible for nuclear powerplant decommissioning may elect to deduct contributions made to a qualified nuclear decommissioning fund for future decommissioning costs. Taxpayers who do not elect this provision are subject to general tax accounting rules.

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, management costs of the fund, and for making investments. The income of the fund is taxed at a reduced rate of 20 percent for taxable years beginning after December 31, 1995.

Contributions to a qualified fund are deductible in the year made to the extent that these amounts were 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.

Accumulations in 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 accrue ratably 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 those required to pay future 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 an appropriate 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 the transferee will take the transferor'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. 88), and a deduction has not been allowed for amounts 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 qualified 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 an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer's most recent 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 transferor 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. The conference agreement requires that a taxpayer apply for a new ruling amount with respect to a nuclear powerplant in any tax year in which the powerplant is granted a license renewal, extending its useful life.

7. Arbitrage rules not to apply to prepayments for natural gas (sec. 1307 of the House bill, sec. 1327 of the conference agreement, and sec. 148 of the Code)

PRESENT LAW

Arbitrage restrictions

Interest on bonds issued by States or local governments to finance activities carried out or paid for by those entities generally is exempt from income tax. Restrictions are imposed on the ability of States or local governments to invest the proceeds of these bonds for profit (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 otherwise would be made. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same transaction.

On August 4, 2003, the Treasury Department issued final regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity. Generally, a qualified prepayment under the regulations requires that 90 percent of the natural gas or electricity 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, however, gas used to produce electricity for sale is not included under this provision (2) used by the issuing municipal utility to produce electricity that will be furnished to retail electric service area customers of the issuing utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility owned by a governmental person and furnished to the service area retail electric customers of the purchaser, (4) 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 fuel the pipeline transportation of the prepaid gas supply. Electricity is used for a qualifying use if it is to be (1) furnished to retail service area electric customers of the issuing municipal utility or (2) sold to a municipal utility and furnished to retail electric customers of the purchaser who are located in the electricity service area of the purchaser.

Private activity bond tests

State and local bonds may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or the debt is repaid with governmental funds. Private activity bonds are bonds where the State or local government serves as a conduit providing financing to private businesses or individuals. A bond will be treated as a private activity bond if more than five 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 (the ''private loan financing test'') or if it meets the requirements of a two-part private business test.

The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain purposes permitted by the Code. Section 141(d) of the Code provides that the term ''private activity bond'' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of five percent of such proceeds or $5 million. ''Nongovernmental output property'' generally means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (other than a facility for the furnishing of water). An exception applies to output property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in (1) a qualified service area of the governmental unit acquiring the property, or (2) a qualified annexed area of such unit.

HOUSE BILL

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.

Under 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 utility is not treated as the acquisition of investment-type property. A contract is a qualified natural gas contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility (''retail natural gas consumption'') during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is 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 electricity was 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 of the bonds (1) the government 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 is significantly greater than the ratable amount of gas 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 volume of natural gas covered by the prepayment to be in excess of that needed for retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility.

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 within a county contiguous to the 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 based on objective evidence of growth in gas consumption or population that demonstrates that the amount permitted by the exception is insufficient.

Nongovernmental 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 either under the Treasury regulations or statutory safe harbor are not investment-type property for purposes of the arbitrage rules under section 148. No inference is intended regarding the application of subsection 141(d) to prepayment contracts not covered by the statutory safe harbor or Treasury regulations.

Application to joint action agencies

In a number of States, joint action agencies serve as purchasing agents for their member municipal gas utilities. The provision is intended to allow municipal utilities in a State to participate in such buying arrangements as established under State law, subject to the same limitations that would apply if an individual utility were to purchase gas directly. When acting on behalf of its municipal gas utility members, the total amount of gas that can be purchased by a joint action agency under the provision's exception to the arbitrage rules is the aggregate of what each such member could purchase for itself on a direct basis. Thus, with respect to qualified natural gas supply contracts entered into by joint action agencies for or on behalf of one or more member municipal utilities, the requirements of the safe harbor are tested at the individual municipal utility level based on the amount of gas that would be allocated to such member during any year covered by the contract.

Effective date.—The provision is effective for bonds issued after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

8. Determination of small refiner exception to oil depletion deduction (sec. 1308 of the House bill, sec. 1328 of the conference agreement, and sec. 613A of the Code)

PRESENT LAW

Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides special tax rules for operations by independent producers. One such rule allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion).

A producer is an independent producer only if its refining and retail operations are relatively small. For example, an independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed. A refinery run is the volume of inputs of crude oil (excluding any product derived from oil) into the refining stream.

HOUSE BILL

The bill increases the current 50,000-barrel-per-day limitation to 75,000. In addition, the bill changes the refinery limitation on claiming independent producer status from a limit based on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refinery runs for the taxable year may not exceed 75,000 barrels. For this purpose, the taxpayer calculates average daily refinery runs by dividing total refinery runs for the taxable year by the total number of days in the taxable year.

Effective date.—The provision is effective for taxable years ending after date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement follows the House bill.

9. Extension and modification of renewable electricity production credit (secs. 1501–1503 of the Senate amendment, secs. 1301 and 1302 of the conference agreement, and sec. 45 of the Code)

PRESENT LAW

In general

An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person (sec. 45). Qualified facilities comprise wind energy facilities, closed-loop biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. In addition, an income tax credit is allowed for the production of refined coal.

Credit amounts and credit period

In general

The base amount of the credit is 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. A taxpayer 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, subsidized energy financing, and other credits. The amount of credit a taxpayer may claim is phased out as the market price of electricity (or refined coal in the case of the refined coal production credit) exceeds certain threshold levels.

Reduced credit amounts and credit periods

In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the 10-year credit period is reduced to five years commencing on the date the facility is placed in service. In general, 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 a closed-loop biomass facility modified to co-fire with coal, to co-fire with other biomass, or to co-fire with coal and other biomass, the credit period begins no earlier than October 22, 2004.

In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the otherwise allowable credit amount is 0.75 cent per kilowatt-hour, indexed for inflation measured after 1992 (currently 0.9 cents per kilowatt-hour for 2005).

Credit applicable to refined coal

The amount of the credit for refined coal is $4.375 per ton (also indexed for inflation after 1992 and equaling $5.481 per ton for 2005).

Other limitations on credit claimants and credit amounts

In general, in order to claim the credit, a taxpayer must own the qualified facility and sell the electricity produced by the facility (or refined coal in the case of the refined coal production credit) to an unrelated party. A lessee or operator may claim the credit in lieu of the owner of the qualifying facility in the case of qualifying open-loop biomass facilities originally placed in service on or before the date of enactment and in the case of a 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. 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 qualifying 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 otherwise allowable 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, there is no reduction in credit 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 $25,000. Excess 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 tax liability 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 of production 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 facility, a wind energy 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 be a qualified facility, 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 open-loop biomass to produce electricity. Open-loop biomass is defined as (1) any agricultural livestock waste nutrients, or (2) any solid, nonhazardous, cellulosic or lignin waste material which is segregated from other waste materials and which is derived from certain forest-related resources, solid wood waste materials, or agricultural sources. Eligible forest-related resources are mill residues, other than spent chemicals from pulp manufacturing, precommercial thinnings, slash, and brush. Solid wood waste materials include waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings. Agricultural sources include orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues. However, qualifying open-loop biomass does not include municipal solid waste (garbage), gas derived from biodegradation of solid waste, or paper that is commonly recycled. 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 litter, including bedding 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 at 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 liquid 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 placed 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 dam or impoundment of water. The installed capacity of a qualified facility must be not 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 to produce electricity. 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, 2009. Refined coal is a qualifying liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high-carbon fly ash, including such fuel used as a feedstock. A qualifying fuel is a fuel that when burned emits 20 percent less nitrogen oxides and either SO_2 or mercury than the burning of feedstock coal or comparable coal predominantly available in the marketplace as 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 for the primary purpose of producing steam.

Summary of credit rate and credit period by facility type

TABLE 1.—SUMMARY OF SECTION 45 CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES AND REFINED COAL

Electricity produced from renewable resources	Credit amount for 2005 (cents per kilowatt-hour; dollars per ton)	Credit period (years from placed-in-service date)[1]
Wind	1.9	10
Closed-loop biomass	1.9	10
Open-loop biomass (including agricultural livestock waste nutrient facilities)	0.9	5
Geothermal	1.9	5
Solar	1.9	5
Small irrigation power	0.9	5
Municipal solid waste (including landfill gas facilities and trash combustion facilities)	0.9	5
Refined Coal	5.481	10

[1] 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 subchapter T 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extension of placed-in-service date for qualifying 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, 2005) 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 fuel into electricity 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.

Hydropower

A qualifying hydropower facility is (1) a facility that produced hydroelectric power (a hydroelectric dam) prior to the date of enactment at which efficiency improvements or additions to capacity have been made after the date of enactment and before January 1, 2009, that enable the taxpayer to produce incremental hydropower or (2) a facility placed in service before the date of enactment that did not produce hydroelectric power (a nonhydroelectric dam) on the date of enactment and to which turbines or other electricity generating equipment have been added after the date of enactment and before January 1, 2009.

At an existing hydroelectric facility, the taxpayer may only claim credit for the production of incremental hydroelectric power. Incremental hydroelectric power for any taxable year is equal to the percentage of average annual hydroelectric power produced at the facility attributable to the efficiency improvement or additions of capacity determined by using the same water flow information used to determine an historic average annual hydroelectric power production baseline for that facility. The Federal Energy Regulatory Commission will certify the baseline power production of the facility and the percentage increase due to the efficiency and capacity improvements.

At a nonhydroelectric dam, the facility must be licensed by the Federal Energy Regulatory Commission and meet all other applicable environmental, licensing, and regulatory requirements and the turbines or other generating devices are added to the facility after the date of enactment and before January 1, 2009. In addition there must not be any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of additional water from the natural stream channel.

In the case of electricity generated from a qualifying hydropower facility, the taxpayer may claim a credit equal to one-half the otherwise allowable amount.

Wave, current, tidal, and ocean thermal energy

A qualifying wave, current, tidal, and ocean thermal energy facility is a facility placed in service after the date of enactment and before January 1, 2009 that uses free flowing ocean water derived from tidal currents, ocean currents, waves, or estuary currents, ocean thermal energy, or free flowing water in rivers, lakes, man-made channels, or streams to produce electricity. However, a qualifying facility does not include any facility that includes impoundment structures or a small irrigation power facility.

Equalization of credit period for all qualifying renewable resources

The provision extends the credit period from five years to 10 years for electricity produced from qualifying open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal facilities, solar facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities placed in service after the date of enactment. The provision also provides that for electricity produced from the energy resources newly qualified under the bill—fuel cells, hydropower, and wave, current, tidal, and ocean thermal energy—the credit period is 10 years.

Clarification of units added to pre-existing trash combustion facilities

The provision clarifies that a qualifying trash combustion facility includes a new unit, placed in service after October 22, 2004, that increases electricity production capacity at an existing trash combustion facility. A new unit generally would include a new burner/boiler and turbine. The new unit may share certain common equipment, such as trash handling equipment, with other pre-existing units at the same facility. Electricity produced at a new unit of an existing facility qualifies for the production credit only to the extent of the increased amount of electricity produced at the entire facility.

Taxation of cooperatives and their patrons

The Senate amendment allows eligible cooperatives to elect to pass any portion of the credit through to their patrons. An eligible cooperative is defined as a cooperative organization that is owned more than 50 percent by agricultural producers or entities owned by agricultural producers.

Under the Senate amendment, the credit may be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. The election must be made on a timely filed return for the taxable year, and once made, is irrevocable for such taxable year.

The amount of the credit apportioned to patrons is not included in the organization's credit for the taxable year of the organization. The amount of the credit apportioned to a patron is included in the taxable year the patron with or within which the taxable year of the organization ends. If the amount of the credit for any taxable year is less than the amount of the credit shown on the cooperative's return for such taxable year, an amount equal to the excess of the reduction in the credit over the amount not apportioned to patrons for the taxable year is treated as an increase in the cooperative's tax. The increase is not treated as tax imposed for purposes of determining the amount of any tax credit.

Effective date.—The provision generally is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications.

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 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 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 resources

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 four years of the seven-year period and $2.00 per ton for the last three years 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 tribe or its members.

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 qualifying open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal facilities, solar 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.

Clarification of units added to pre-existing trash combustion facilities

The conference agreement follows the Senate amendment with respect to clarification 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 the taxation of cooperatives and their patrons.

Effective date.—The provision generally is effective on the date of enactment. With respect to the taxation of cooperatives and their patrons, the provision applies to taxable years ending after the date of enactment.

10. Clean renewable energy bonds (sec. 1504 of the Senate amendment, sec. 1303 of the conference agreement, and new sec. 54 of the Code)

PRESENT LAW

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Subject to certain restrictions, activities that can be financed with these tax-exempt bonds include electric power facilities (i.e., generation, transmission, distribution, and retailing).

Generally, interest on State or local government bonds to finance activities of private persons (''private activity bonds'') is taxable unless a specific exception is contained in the Code. The term ''private person'' generally includes the Federal Government and all other individuals and entities other than States or local governments. The Code includes exceptions permitting States or local governments to act as conduits providing tax-exempt financing for certain private activities. In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. The Code imposes several additional restrictions on tax-exempt private activity bonds that do not apply to bonds for governmental activities.

The tax exemption for State and local bonds also does not apply to any arbitrage bond. An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments. In general, arbitrage profits may be earned only during specified periods (e.g., defined ''temporary periods'') before funds are needed for the purpose of the borrowing or on specified types of investments

(e.g., ''reasonably required reserve or replacement funds''). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal government.

An issuer must file with the IRS certain information in order for a bond issue to be tax-exempt. Generally, this information return is required to be filed no later the 15th day of the second month after the close of the calendar quarter in which the bonds were issued.

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue ''qualified zone academy bonds.'' ''Qualified zone academy bonds'' are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a ''qualified zone academy'' and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. 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, and (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.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. 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 issuer. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

There is an annual limitation of $400 million on the amount of qualified zone academy bonds that may be issued in calendar years 1998 through 2005. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Tax credits for production of electricity from renewable sources

An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person. The base amount of the credit is 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. A taxpayer 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, subsidized energy financing, and other credits. The amount of credit a taxpayer may claim is phased out as the market price of electricity (or refined coal in the case of or refined coal production credit) exceeds certain threshold levels.

Qualified facilities comprise wind energy facilities, closed-loop biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. In addition, an income tax credit is allowed for the production of refined coal.

For purposes of the credit, qualified facilities must be placed in service by certain dates. However, with the exception of qualifying refined coal facilities, in no event may qualifying facilities be placed in service after December 31, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision creates a new category of tax credit bonds: Clean Renewable Energy Bonds (''CREBs''). CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for facilities that qualify for the tax credit under section 45 (''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. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of CREBs without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

The provision also imposes a maximum maturity limitation on any CREBs. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a CREBs being equal to 50 percent of the face amount of such bond. Moreover, the provision requires level amortization of CREBs during the period such bonds are outstanding.

For purposes of the provision, ''qualified issuers'' include (1) governmental bodies (including 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 has received a loan or guarantee under the Rural Electrification Act); and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term ''qualified borrower'' includes a governmental body, the Tennessee Valley Authority, and a mutual or cooperative electric company.

Under the provision, CREBs are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder shall apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs. For example, for arbitrage purposes, the yield on an issue of CREBs is computed by taking into account all payments of interest, if any, on such bonds, i.e., whether the bonds are issued at par, premium, or discount. However, for purposes of determining yield, the amount of the credit allowed to a taxpayer holding CREBs is not treated as interest, although such credit amount is treated as interest income to the taxpayer.

In addition, to qualify as CREBs, the qualified issuer must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used 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 issuer's request.

Unlike qualified zone academy bonds, the provision requires issuers of CREBs to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. Under the provision, there is a national limitation of $1 billion of CREBs that the Secretary may allocate, in the aggregate, to qualified projects. The authority to issue CREBs expires December 31, 2008.

Effective date.—The provision is effective for bonds issued after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. Under the conference agreement, the term ''qualified issuers'' includes (1) governmental bodies (including Indian tribal governments); (2) 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 has received a loan or guarantee under the Rural Electrification Act); and (3) clean energy bond lenders. The term ''qualified borrower'' includes a governmental body (including an Indian tribal government) and a mutual or cooperative electric company.

Under the conference agreement, there is a national limitation of $800 million of CREBs that the Secretary may allocate, in the aggregate, to qualified projects. Qualified projects are any ''qualified facilities'' within the meaning of section 45 (without regard to the placed-in-service date requirements of that section), other than Indian coal production facilities. In addition, the conference agreement provides that the authority to issue CREBs expires December 31, 2007. However, the Secretary shall not allocate more than $500 million of CREBs to finance qualified projects for qualified borrowers that are governmental bodies (as defined under the conference agreement).

11. Treatment of income of certain electric cooperatives (sec. 1505 of the Senate amendment, sec. 1304 of the conference agreement, and sec. 501(c)(12) of the Code)

PRESENT LAW

In general

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage. The Internal Revenue Service requires that cooperatives must operate under

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 the members of the cooperative; (3) vesting in and allocation among the members of all excess of operating revenues over the expenses incurred to generate revenues in proportion to their participation in the cooperative (patronage); and (4) operation at cost (not operating for profit or below cost).

In general, cooperative members are those who participate in the management of the cooperative and who share in patronage capital. As described below, income from the sale of electric energy by an electric cooperative may be member or non-member income to the cooperative, depending on the membership status of the purchaser. 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 profits of the cooperative that are rebated to its patrons pursuant to a pre-existing obligation of the cooperative to do so. 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 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.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of all net income, including net income that is derived from 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 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 patronage dividends from taxable income to the extent of all net income of the cooperative, including net income derived from transactions with patrons who are not members of the cooperative.

Tax exemption of rural 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 sole purpose of meeting 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 85-percent test is determined without taking into account any income from: (1) qualified pole rentals; (2) open access electric energy transmission services; (3) open access electric energy distribution services; (4) any nuclear decommissioning transaction; (5) any asset exchange or conversion transaction.

Income from open access transactions

Income received or accrued by a rural electric cooperative (other than income received or accrued directly or indirectly from a member of the cooperative) from the provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (including an agreement providing for the transfer of control—but not ownership—of transmission facilities) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12).

In addition, income is excluded for purposes of the 85-percent test if it is received or accrued by a rural electric cooperative (other than income received or accrued directly or indirectly from a member of the cooperative) from the provision or sale of electric energy distribution services or ancillary services, provided such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the cooperative: (1) to end-users who are served by distribution facilities not owned by the cooperative or any of its members; or (2) generated by a generation facility that is not owned or leased by the cooperative or any of its members and that is directly connected to distribution facilities owned by the cooperative or any of its members.

The exclusion for income from open access transactions does not apply to taxable years beginning after December 31, 2006.

Income from nuclear decommissioning transactions

Income received or accrued by a rural electric cooperative from any ''nuclear decommissioning transaction'' also is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The term ''nuclear decommissioning transaction'' is defined as—

1. any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the cooperative's interest in a nuclear powerplant or nuclear powerplant unit;

2. any distribution from a trust, fund, or instrument established to pay any nuclear decommissioning costs; or

3. any earnings from a trust, fund, or instrument established to pay any nuclear decommissioning costs.

The exclusion for income from nuclear decommissioning transactions does not apply to taxable years beginning after December 31, 2006.

Income from asset exchange or conversion transactions

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 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); and (2) the replacement property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes property that is used, or to be used, for the purpose of generating, transmitting, distributing, or selling electricity 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 for Federal income tax purposes as a mutual or cooperative company under the fundamental cooperative principles described above.

The term ''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 such period by the cooperative to members. The ''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, 2004.

Present law also excludes income received or accrued by rural electric cooperatives from load loss transactions from the tax on unrelated trade or business income.

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 excludible 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 not 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment eliminates the sunset date for the rules excluding income received or accrued by tax-exempt rural electric cooperatives from open access electric energy transmission or distribution services,

any nuclear decommissioning transaction, and any asset exchange or conversion transaction for purposes of the 85-percent test under section 501(c)(12). The provision also eliminates the sunset date for the rule that allows income from load loss transactions to be treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test. In addition, the provision eliminates the sunset date for the rule that permits taxable electric cooperatives to treat the receipt or accrual of income from load loss transactions as income from patrons who are members of the cooperative.

Effective date.—The provision is effective on the date of enactment.

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 conference agreement, and sec. 451 of the Code)

PRESENT LAW

Generally, a taxpayer selling property recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special 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 (i) who the FERC determines under section 203 of the Federal Power Act (or by declaratory order) is not a ''market participant'' and (ii) whose transmission facilities are placed under the operational control of a FERC-approved independent transmission provider before the close of the period specified in such authorization, but not later than January 1, 2007; or (3) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas, (i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization, or (ii) a political subdivision, or affiliate thereof, whose transmission facilities are under the operational control of an organization described in (i).

Exempt utility property is defined as: (1) property used in the trade or business of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas, or (2) stock in a controlled corporation whose principal trade or business consists of the activities described in (1).

If a taxpayer is a member of an affiliated group of corporations filing a consolidated return, the reinvestment property may be purchased by any member of the affiliated group (in lieu of the taxpayer).

HOUSE BILL

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.

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 (sec. 45). Qualified facilities comprise wind energy facilities, ''closed-loop'' biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. The base amount of the credit is 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 open-loop biomass, small irrigation power, and municipal solid waste facilities receives only 50 percent of the credit, or 0.9 cents per kilowatt-hour for 2005. Generally, wind and closed-loop biomass facilities may claim this credit for 10 years from the placed-in-service date of the facility. Other qualified facilities may claim the credit for only five years from the placed-in-service date.

Present law does not provide a credit for electricity produced at advanced nuclear power facilities.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision permits a taxpayer producing electricity at a qualifying advanced nuclear power facility to claim a credit equal to 1.8 cents per kilowatt-hour of electricity produced for the eight-year period starting when the facility is placed in service. The aggregate amount of credit that a taxpayer may claim in any year during the eight-year period is subject to limitation based on allocated capacity and an annual limitation as described below.

A qualifying advanced nuclear facility is an advanced nuclear facility for which the taxpayer has received an allocation of megawatt capacity from the Secretary and is placed in service before January 1, 2021. The taxpayer may only claim credit for production of electricity equal to the ratio of the allocated capacity that the taxpayer receives from the Secretary to the rated nameplate capacity of the taxpayer's facility. For example, if the taxpayer receives an allocation of 750 megawatts of capacity from the Secretary and the taxpayer's facility has a rated nameplate capacity of 1,000 megawatts, then the taxpayer may claim three-quarters of the otherwise allowable credit, or 1.35 cents per kilowatt-hour, for each kilowatt-hour of electricity produced at the facility (subject to the annual limitation described below). The Secretary may allocate up to 6,000 megawatts of capacity.

A taxpayer operating a qualified facility may claim no more than $125 million in tax credits per 1,000 megawatts of allocated capacity in any one year of the eight-year credit period. If the taxpayer operates a 1,350 megawatt rated nameplate capacity system and has received an allocation from the Secretary for 1,350 megawatts of capacity eligible for the credit, the taxpayer's annual limitation on credits that may be claimed is equal to 1.35 times $125 million, or $168.75 million. If the taxpayer operates a facility with a nameplate rated capacity of 1,350 megawatts, but has received an allocation from the Secretary for 750 megawatts of credit eligible capacity, then the two limitations apply such that the taxpayer may claim a credit equal to 1.35 cents per kilowatt-hour of electricity produced (as described above) subject to an annual credit limitation of $93.75 million in credits (three-quarters of $125 million).

An advanced nuclear facility is any nuclear facility for the production of electricity, the reactor design for which was approved after 1993 by the Nuclear Regulatory Commission. For this purpose, a qualifying advanced nuclear facility does not include any facility for which a substantially similar design for a facility of comparable capacity was approved before 1994.

In addition, the credit allowable to the taxpayer is reduced by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits, but such reduction cannot exceed 50 percent of the otherwise allowable credit. The credit is treated as part of the general business credit.

Effective date.—The provision applies to electricity produced in taxable years beginning after the date of enactment.

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 property that uses coal as a fuel or for the gasification of coal or other materials. However, a nonrefundable, 10–percent investment tax credit (''energy 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) 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)).

HOUSE BILL

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. Certifications are issued using a competitive bidding process.

With respect to the first investment tax credit, the provision establishes a 10–year program to produce 7,500 megawatts of power generation capacity using integrated gasification combined cycle (''IGCC'') and other advanced coal-based electricity generation technologies. Qualified projects must 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. The remaining 3,375 megawatts of power generation capacity must be allocated to credit-eligible projects that use other advanced coal-based technologies.

In determining which projects to certify that use IGCC technology, the Secretary must allocate power generation capacity in relatively equal amounts to projects that use bituminous coal, subbituminous coal, and lignite as primary feedstock. In addition, the Secretary must give high priority to projects which include greenhouse gas capture capability, increased by-product utilization, and other benefits.

With respect to the second investment tax credit, the provision authorizes the certification of certain gasification projects. Qualified gasification projects convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion. Under the provision, certified gasification projects are eligible for the new 20 percent investment tax credit. The total qualified investment which may be certified as eligible for credit under the gasification program may not exceed $4 billion. In addition, the Secretary may certify a maximum of $1 billion in qualified investment as eligible for credit with respect to any single project.

Effective date.—The credits apply to periods after the date of enactment, under rules similar to the rules of section 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. Under the conference agreement, the Secretary may allocate investment credits for 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 advanced coal-based projects is reduced to 15 percent of qualified investments. With respect to IGCC projects, 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.

The conference agreement retains the 20 percent investment credit for certified gasification projects. The agreement, however, 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 also clarifies that only property which is part of a qualifying gasification project and necessary for the gasification technology of such project is eligible for the gasification credit.

15. Clean energy coal bonds (sec. 1509 of the Senate amendment)

PRESENT LAW

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Subject to certain restrictions, activities that can be financed with these tax-exempt bonds include electric power facilities (i.e., generation, transmission, distribution, and retailing).

Generally, interest on State or local government bonds to finance activities of private persons (''private activity bonds'') is taxable unless a specific exception is contained in the Code. The term ''private person'' generally includes the Federal Government and all other individuals and entities other than States or local governments. The Code includes exceptions permitting States or local governments to act as conduits providing tax-exempt financing for certain private activities. In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. The Code imposes several additional restrictions on tax-exempt private activity bonds that do not apply to bonds for governmental activities.

The tax exemption for State and local bonds also does not apply to any arbitrage bond. An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments. In general, arbitrage profits may be earned only during specified periods (e.g., defined ''temporary periods'') before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., ''reasonably required reserve or replacement funds''). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government.

An issuer must file with the IRS certain information in order for a bond issue to be tax-exempt. Generally, this information return is required to be filed no later than the 15th day of the second month after the close of the calendar quarter in which the bonds were issued.

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue ''qualified zone academy bonds.'' ''Qualified zone academy bonds'' are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a ''qualified zone academy'' and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. 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, and (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.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. 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 issuer. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

There is an annual limitation of $400 million on the amount of qualified zone academy bonds that may be issued in calendar years 1998 through 2005. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision creates a new category of tax credit bonds: Clean Energy Coal Bonds (''ClECos''). ClECos are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for ''certified coal property.'' Certified coal property is defined as any property that is part of a qualifying advanced coal project certified by the Secretary.

Like qualified zone academy bonds, ClECos are not interest-bearing obligations. Rather, the taxpayer holding a ClECos on a credit allowance date would be entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of ClECos without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

For purposes of the provision, ''qualified issuers'' include (1) governmental bodies; (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 has received a loan or guarantee under the Rural Electrification Act); and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term ''qualified borrower'' includes a governmental body, the Tennessee Valley Authority, and a mutual or cooperative electric company.

Under the provision, ClECos are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. In addition, to qualify as ClECos, the qualified issuer must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on certified coal property within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five- year spending period, bonds will continue to qualify as ClECos if unspent proceeds are used

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 issuer's request.

The provision also imposes a maximum maturity limitation on any ClECos. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a ClECos being equal to 50 percent of the face amount of such bond. Moreover, the provision requires level amortization of ClECos during the period such bonds are outstanding.

Unlike qualified zone academy bonds, the provision requires issuers of ClECos to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. Under the provision, there is a national limitation of $1 billion of ClECos that the Secretary may allocate, in the aggregate, to certified coal property projects. The authority to issue ClECos 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 Senate amendment provision.

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 steam or electricity from waste heat generated during the production of metallurgical coke.

The qualified investment for any taxable year is the basis of each coke/cogeneration facilities property placed in service by the taxpayer during such taxable year. The provision excludes the credit from the basis adjustment 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, 2010, under rules similar to the rules of section 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

17. Temporary expensing for equipment used in the refining of liquid fuels (sec. 1512 of the Senate amendment, sec. 1323 of the conference agreement, and new sec. 179C of the Code)

PRESENT LAW

Depreciation of refinery assets

Under present law, depreciation allowances for property used in a trade or business generally are determined under the Modified Accelerated Cost Recovery System (''MACRS'') of section 168 of the Internal Revenue Code. Under MACRS, petroleum refining assets are depreciated for regular tax purposes over a 10-year recovery period using the double declining balance method. Petroleum refining assets are assets used for distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components. Present law also provides a special expensing rule for small refiners for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.

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 subchapter T 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision provides a temporary election to expense qualified refinery property. Qualified refinery property includes assets, located in the United States, used in the refining of liquid fuels: (1) with respect to the construction of which there is a binding construction contract before January 1, 2008; (2) which are placed in service before January 1, 2012; (3) which increase the 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 1322(a)(1) of the Act) such that it equals or exceeds 25 percent; and (4) which meet all applicable environmental laws in effect when the property is placed in service.

The expensing election is not available with respect to identifiable refinery property built solely to comply with Federally mandated projects 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 increased capacity to accommodate qualified fuels and is necessary for the refinery to comply with the Clean Air Act. This exclusion applies regardless of whether the mandate or consent decree addresses environmental concerns with respect to the refinery itself or the refined fuels.

The Senate amendment provision allows cooperative organizations 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 owners, the cooperative is denied deductions it would otherwise be entitled with respect to qualified refinery property.

As a condition of eligibility for the expensing of 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 output).

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, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications. 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 by the volume of finished products other than asphalt and lube oil, rather than input capacity, as measured by rated capacity.

The conference agreement includes a clarification 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 its owners must make such an 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 cooperative in complying with Environmental Protection Agency sulfur 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 depreciation deductions. In addition, the Code permits small business refiners to immediately deduct as an 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 for each gallon of low sulfur diesel fuel produced during the taxable year that is in compliance with the Highway Diesel Fuel Sulfur Control Requirements. The total production credit claimed by the taxpayer is limited to 25 percent of the capital costs incurred to come into compliance with the EPA diesel fuel requirements. As 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 petroleum products employs not more than 1,500 employees directly in refining and has less than 205,000 barrels per day (average) of total refinery 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 any production credits to patrons of the organization. Present law does not permit cooperatives to pass through to members the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Diesel 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 taxable income distributions of patronage dividends. In general, patronage dividends are the profits of the cooperative that are rebated to its patrons pursuant to a pre-existing obligation of the cooperative to do so. 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 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.

Cooperatives that qualify as tax-exempt farmers' cooperatives are permitted to exclude patronage dividends from their taxable income to the extent of all net income, including net income that is derived from 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows cooperatives to pass through to their owners the deduction permitted for costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements. To the extent the deduction is passed through to owners, the cooperative is denied deductions it would otherwise be entitled with respect to costs attributable to complying with the Highway Diesel Fuel Sulfur Control Requirements.

Effective date.—The provision is effective as if included in the amendments made by section 338(a) of the American Jobs Creation Act of 2004.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement clarifies the manner in which a cooperative organization may elect to pass through to cooperative owners the deduction for costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements. Specifically, the election must be made on the tax return of the organization for the taxable year to which the deduction relates. Once made, the election is irrevocable. Moreover, the organization making such an election must provide cooperative owners receiving an allocation of the deduction written notice of the amount of such allocation. The written notice must be provided by the due date for the tax return on which the election is made.

19. Modification of enhanced oil recovery credit (sec. 1514 of the Senate amendment)

PRESENT LAW

Taxpayers may claim a credit equal to 15 percent of enhanced oil recovery (''EOR'') costs (sec. 43). Qualified EOR costs include the following costs associated with an EOR project: (1) amounts paid for depreciable tangible property; (2) intangible drilling and development expenses; (3) tertiary injectant expenses; and (4) construction costs for certain Alaskan natural gas treatment facilities.

The EOR credit is ratably reduced over a $6 phase-out range when the reference price for domestic crude oil exceeds $28 per barrel (adjusted for inflation after 1991). The reference price is determined based on the annual average price of domestic crude oil for the calendar year preceding the calendar year in which the taxable year begins (sec. 29(d)(2)(C)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision modifies the EOR credit to increase the credit rate 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 for qualified EOR projects that use 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 defined as any project located in the United States which involves the production of natural gas from onshore formations deeper than 20,000 feet. Under the provision, the credit for qualified 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 INCENTIVES

1. Credit for residential energy efficient property (sec. 1311 of the House bill, sec. 1527 of the Senate amendment, sec. 1335 of the conference agreement, and new sec. 25D of the Code)

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 or to improve the management of 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 equal to 15 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 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 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 assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only 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 nonbusines purposes shall be taken into account. Certain equipment safety requirements need to be met 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.

SENATE AMENDMENT

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 equal to 30 percent of qualifying expenditures, with a maximum credit for each of these systems of property of $2,000. The provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

Qualifying solar water heating property means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence 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 assembly and associated balance of plant components that (1) converts a fuel into electricity using electrochemical means, (2) has an electricity-only generation efficiency of greater than 30 percent, and (3) generates at least 0.5 kilowatts of electricity. The qualified fuel cell power plant must be installed on or in connection with a dwelling unit located in the United States and used by the taxpayer as a principal residence.

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 original installation of property eligible for the credit are eligible expenditures.

Certain equipment safety requirements need to be met to qualify for the credit. Special proration rules apply in the case of jointly owned property, condominiums, and 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 property placed in service prior to January 1, 2008.

Effective date.—The credit applies to property placed in service 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. 1528 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 derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy investment tax credit is a component of the general business credit. The general business credit generally may not exceed the excess of the taxpayer's net income tax over the greater of (1) the tentative minimum tax or (2) 25 percent of net regular tax liability in excess of $25,000. A general business credit in excess of the tax limitation generally may be carried back one year and carried forward up to 20 years.

There is no present-law credit for fuel cell or microturbine power plant property.

HOUSE BILL

The provision provides a 15-percent credit for the purchase of qualified fuel cell power plants for businesses. The credit is part of the business energy investment tax credit. A qualified fuel cell power plant is an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means, and which has an electricity-only generation efficiency of greater than 30 percent. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The taxpayer's basis in the property is reduced by the amount of the credit claimed.

Effective date.—The provision applies to property placed in service after April 11, 2005, and before January 1, 2008, 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).

SENATE AMENDMENT

The provision provides a 30 percent business energy credit for the purchase of qualified fuel cell power plants for businesses. A qualified fuel cell power plant is an integrated system composed of a fuel cell stack assembly and associated balance of plant components that (1) converts a fuel into electricity using electrochemical means, (2) has an electricity-only generation efficiency of greater than 30 percent, and (3) generates at least 0.5 kilowatts of electricity. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatts of capacity.

Additionally, the provision provides a 10-percent credit for the purchase of qualifying stationary microturbine power plants. A qualified stationary microturbine power plant is an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components that converts a fuel into electricity and thermal energy. Such system also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency and power factors. Such system must have an electricity-only generation efficiency of not less that 26 percent at International Standard Organization conditions and a capacity of less than 2,000 kilowatts. 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 telecommunications companies, the provision removes the present-law section 48 restriction that would prevent telecommunication companies from claiming the new credit due to their status as public utilities.

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, 2010 (January 1, 2009 in the case of micro turbines), 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.

Effective date.—The credit 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).

3. Business solar investment tax credit (sec. 1529 of the Senate amendment, sec. 1337 of the conference agreement, and sec. 48 of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy 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 derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of so much of the net regular tax liability as exceeds $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision increases the 10-percent credit to 30-percent in the case of solar energy property. Additionally, the provision provides that equipment that uses fiber-optic distributed sunlight to illuminate the inside of a structure is solar energy property eligible for the 30-percent credit. The provision provides that property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property.

Effective date.—The provision applies to periods after December 31, 2005 and before January 1, 2012 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. The conference agreement makes permanent the provision that provides that property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property.

Effective date.—The provision with respect to the heating of swimming pools applies to periods 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).

4. Diesel-water fuel emulsion (sec. 1313 of the House bill, sec. 1343 of the conference agreement, and sec. 4081 of the Code)

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 for the Trust Fund.

The tax rate for certain special motor fuels is determined, on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane)	13.6 cents per gallon
Liquefied natural gas	11.9 cents per gallon
Methanol derived from natural gas	9.15 cents per gallon
Compressed natural gas	48.54 cents per MCF

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 83.1 percent diesel (and other minor chemical additives to enhance combustion) and at least 16.9 percent water. The emulsion addition must be registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on

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 fuel emulsion on which a reduced rate of tax was imposed is treated as a refiner of the fuel and is liable 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 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 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 deducted as they are incurred (sec. 263). Oil and gas producers typically contract for 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 of 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 costs'') 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.

Courts have held that G&G costs are capital, and therefore are allocable to the cost of the property acquired or retained. The costs attributable to such exploration are allocable to the cost of the property acquired 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 encompasses a territory that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, 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 mineral 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 as many small projects as there are areas of interest located and identified 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 properties 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 depletable basis of that area 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.

If no areas of interest are 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 the exploration is deductible as a loss 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 263(a). If more than one property is acquired, it is proper to determine the amount of the G&G costs allocable to each such property by allocating the entire amount of the costs among the properties on the basis of comparative acreage.

If, 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 as a loss under section 165 for the taxable year in which such area of interest is abandoned as a potential source of mineral production.

In 1983, the IRS issued Revenue Ruling 83–105, which elaborates on the positions set forth in the 1977 ruling by setting forth seven factual situations and applying the principles of the 1977 ruling to those situations. In addition, Revenue Ruling 83–105 explains what constitutes ''abandonment as a potential source of mineral production.''

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 of a property 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. 1553 of the Senate amendment, secs. 1341 and 1348 of the conference agreement, sec. 179A of the Code, and new sec. 30B 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 certain 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 ether). 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 pounds; and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for the clean-fuel vehicle deduction. The deduction is reduced to 25 percent of the otherwise allowable deduction in 2006 and is unavailable for purchases after December 31, 2006.

HOUSE BILL

The House bill provides a credit for each new qualified advanced lean-burn technology motor vehicle placed in service by the taxpayer during the taxable year. The amount of the credit for any vehicle is the sum of an amount for fuel efficiency and an amount for conservation. The amount for fuel efficiency is based on a comparison of the fuel efficiency of the vehicle compared to the Environmental Protection Agency's 2000 model year city fuel economy for a vehicle in the same inertia weight class. The amount for conservation is based on the qualifying vehicle's estimated lifetime fuel savings compared to the same 2000 model year standard.

Table 2, below, shows the credit amount for fuel efficiency of a qualified advanced lean- burn technology motor vehicle.

TABLE 2.—FUEL EFFICIENCY CREDIT AMOUNT FOR QUALIFIED ADVANCED LEAN-BURN TECHNOLOGY MOTOR VEHICLES

Credit Amount	If Fuel Economy of the Vehicle Is:	
	at least	but less than
$500	125% of base fuel economy	150% of base fuel economy
1,000	150% of base fuel economy	175% of base fuel economy
1,500	175% of base fuel economy	200% of base fuel economy
2,000	200% of base fuel economy	225% of base fuel economy
2,500	225% of base fuel economy	250% of base fuel economy
3,000	250% of base fuel economy	

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 economy for a vehicle in the same inertia weight class. The difference is the lifetime fuel savings. If the vehicle achieves a lifetime motor fuel savings between 1,500 and 2,500 gallons of fuel, 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 inertia weight class by vehicle type. The ''vehicle inertia weight class'' is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act. A qualifying advanced lean-burn technology motor vehicle means a motor vehicle the original use of which commences with the taxpayer, powered by an internal combustion engine that is designed to operate primarily using more air than is necessary for complete combustion of the fuel and incorporates direct injection, that uses only diesel fuel (as defined in section 4083(a)(3)), has sufficient fuel economy to qualify for the credit, and meets the Environmental Protection Agency's Tier II bin 8 emissions standards. In addition, in order to qualify for a credit, a vehicle must be in compliance with the applicable provisions of the Clean Air Act and the motor vehicle safety provisions.

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 (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long the seller clearly 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 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 and before January 1, 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.

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 paragraphs (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, 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 must be used predominantly in the United States to qualify for the credit.

Any deduction otherwise allowable under section 179A is reduced by the amount of the credit allowable.

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 to taxable years beginning before the date of enactment and credits for vehicles used for personal use may not be carried back.

Fuel cell vehicles

A qualifying fuel cell vehicle is a motor vehicle that is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and may or may not require reformation prior to use. The amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. For these purposes the base fuel economy is the 2002 model year city fuel economy rating for vehicles of various weight classes (see below). Table 3, below, shows the proposed base credit amounts.

TABLE 3.—BASE CREDIT AMOUNT FOR FUEL CELL VEHICLES

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle ≤ 8,500	$8,000
8,500 < vehicle ≤ 14,000	$10,000
14,000 < vehicle ≤ 26,000	$20,000
26,000 < vehicle	$40,000

In the case of a fuel cell vehicle weighing less than 8,500 pounds and placed in service after December 31, 2009, the $8,000 amount in Table 3, above is reduced to $4,000.

Table 4, below, shows the proposed additional credits for passenger automobiles or light trucks.

Table 4.—CREDIT FOR QUALIFYING FUEL CELL VEHICLES

Credit	If Fuel Economy of the Fuel Cell Vehicle Is:	
	At least	but less than
$1,000	150% of base fuel economy	175% of base fuel economy
1,500	175% of base fuel economy	200% of base fuel economy
2,000	200% of base fuel economy	225% of base fuel economy
2,500	225% of base fuel economy	250% of base fuel economy
3,000	250% of base fuel economy	275% of base fuel economy
3,500	275% of base fuel economy	300% of base fuel economy
4,000	300% of base fuel economy	

Hybrid motor vehicles

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., 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. A qualifying hybrid automobile or light truck must have a maximum available power from the rechargeable energy storage system of at least five percent. In addition, the vehicle must meet or exceed certain EPA emissions standards. For a vehicle with a gross vehicle weight rating of 8,500 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards.

Table 5, below, shows the fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy.

Table 5.—Fuel Economy Credit

Credit	If Fuel Economy of the Fuel Cell Vehicle Is:	
	At least	but less than
$400	125% of base fuel economy	150% of base fuel economy
800	150% of base fuel economy	175% of base fuel economy
1,200	175% of base fuel economy	200% of base fuel economy
1,600	200% of base fuel economy	225% of base fuel economy
2,000	225% of base fuel economy	250% of base fuel economy
2,400	250% of base fuel economy	

In the case of a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the amount of credit is determined by the estimated increase in fuel economy and the incremental cost of the hybrid 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 30 percent but less than 40 percent, the credit is equal to 20 percent of the incremental cost of the hybrid vehicle. For a vehicle that achieves a fuel economy increase of at least 40 percent but less than 50 percent, the credit is equal to 30 percent of the incremental cost of the hybrid vehicle. For a vehicle that achieves a fuel economy increase of 50 percent or more, the credit is equal to 40 percent of the incremental cost of the hybrid vehicle.

The credit is subject to certain maximum applicable incremental cost amounts. For a qualifying hybrid motor vehicle weighing more than 8,500 pounds but not more than 14,000 pounds, the maximum allowable incremental cost amount is $7,500. For a qualifying hybrid motor vehicle weighing more than 14,000 pounds but not more than 26,000 pounds, the maximum allowable incremental cost amount is $15,000. For a qualifying hybrid motor vehicle weighing more than 26,000

pounds, the maximum allowable incremental cost amount is $30,000.

A qualifying hybrid motor vehicle weighing more than 8,500 pounds but not more than 14,000 pounds must have a maximum available power from the rechargeable energy storage system of at least 10 percent. A qualifying hybrid 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

Vehicle Gross Weight Rating in Pounds	Maximum Allowable Incremental Cost
Vehicl ≤ 8,500	$5,000
8,500 < vehicle ≤ 14,000	10,000
14,000 < vehicle ≤ 26,000	25,000
26,000 < vehicle	40,000

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 only on qualifying alternative fuels and are incapable of operating on gasoline or diesel (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 use a combination of 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 that defined in regulations prescribed 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

Vehicle Inertia Weight Class (Pounds)	Passenger Automobile (miles per gallon)	Light Truck (miles per gallon)
1,500	45.2	39.4
1,750	45.2	39.4
2,000	39.6	35.2
2,250	35.2	31.8
2,500	31.7	29.0
2,750	28.8	26.8
3,000	26.4	24.9
3,500	22.6	21.8
4,000	19.8	19.4
4,500	17.6	17.6
5,000	15.9	16.1
5,500	14.4	14.8
6,000	13.2	13.7
6,500	12.2	12.8
7,000	11.3	12.1
8,500	11.3	12.1

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 both 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., batteries). A qualifying hybrid motor 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 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. For a vehicle with a gross vehicle weight rating of 6,000 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards. For a vehicle with a gross vehicle weight rating greater than 6,000 pounds and less than or equal to 8,500 pounds, the applicable emissions standards are the Bin 8 Tier II emissions standards.

Table 8, below, shows the fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy.

TABLE 8.—FUEL ECONOMY CREDIT

Credit	If Fuel Economy of the Hybrid Vehicle Is:	
	at least	but less than
$400	125% of base fuel economy	150% of base fuel economy
800	150% of base fuel economy	175% of base fuel economy
1,200	175% of base fuel economy	200% of base fuel economy
1,600	200% of base fuel economy	225% of base fuel economy
2,000	225% of base fuel economy	250% of base fuel economy
2,400	250% of base fuel economy	

Table 9, below, shows the conservation credit.

TABLE 9.—CONSERVATION CREDIT

Estimated Lifetime Fuel Savings	Conservation Amount
At least 1,200 but less than 1,800	$250
At least 1,800 but less than 2,400	500
At least 2,400 but less than 3,000	750
At least 3,000	1,000

Advanced lean-burn technology motor vehicles

The conference agreement a credit for the purchase of a new advanced lean burn technology motor vehicle. The amount of credit for the purchase of an advanced lean burn technology motor vehicle is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard as described in Table 8, above and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle as described in Table 9 above.

A qualifying advanced lean burn technology motor vehicle that incorporates direct injection, achieves at least 125 percent of the 2002 model year city fuel economy, and 2004 and later model vehicles meets or exceeds certain Environmental Protection Agency emissions standards. For a vehicle with a gross vehicle weight rating of 6,000 pounds or less the applicable emissions standards are the Bin 5 Tier II emissions standards. For a vehicle with a gross vehicle weight rating greater than 6,000 pounds and less than or equal to 8,500 pounds, the applicable emissions standards are the Bin 8 Tier II emissions standards. A qualifying advanced lean burn technology motor vehicle must be placed in service before January 1, 2011.

Limitation on number of qualified hybrid and advanced lean-burn technology motor vehicles eligible for the credit

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 all sales of qualifying 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 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 the 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 the taxable 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, 2015; 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 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 sources 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 under 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

Vehicle Gross Weight Rating in Pounds	Credit Amount
Vehicle ≤ 8,500	$4,000
8,500 < vehicle ≤ 14,000	10,000
14,000 < vehicle ≤ 26,000	20,000
26,000 < vehicle	40,000

If an electric vehicle weighing not more than 8,500 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 $6,000.

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 paragraph (3) or (4) of section 50(b) (relating to use by tax-exempts, governments, and foreign persons) and is not subject to a lease, the seller of the vehicle may claim the credit so long the seller clearly 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 to taxable years beginning 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 (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel, if the storage or dispensing is the point at which 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, but only if the property is located 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 comprise natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent of which is methanol, ethanol, or any other alcohol or ether.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision permits taxpayers to claim a 50–percent credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. In the case of retail clean-fuel vehicle refueling property the allowable credit may not exceed $30,000. In the case of residential clean-fuel vehicle refueling property the allowable credit may not exceed $1,000.

Under the provision clean fuels are any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and hydrogen and any mixture of diesel fuel and biodiesel containing at least 20 percent biodiesel.

The taxpayer's basis in the property is reduced by the amount of the credit and the taxpayer may not claim deductions under section 179A with respect to property for which the credit is claimed. In the case of refueling property installed on property owned or used by a tax-exempt person, the taxpayer that installs the property may claim the credit. To be eligible for the credit, the property must be placed in service before January 1, 2010. The credit allowable in the taxable year cannot exceed the difference between the taxpayer's regular tax (reduced by certain other credits) and the taxpayer's tentative minimum tax. The taxpayer may carry forward unused credits for 20 years.

Effective date.—The provision is effective for property placed in service December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the credit rate is 30 percent rather than 50 percent.

The portion of the credit attributable to property 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 the taxable year.

The conference agreement provides that the credit may not be claimed for property placed in service after December 31, 2007.

Effective date.—The provision is effective for property placed in service December 31, 2005 and before January 1, 2008.

10. Volumetric excise tax credit for alternative fuels (sec. 1534 of the Senate amendment)

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 for the Trust Fund. The statutory rates for certain special motor fuels are determined on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane)	13.6 cents per gallon
Liquefied natural gas	11.9 cents per gallon
Methanol derived from petroleum or natural gas.	9.15 cents per gallon
Compressed natural gas	48.54 cents per MCF

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) when there is a taxable sale by any person to an owner, lessee or other operator of a motor vehicle or motorboat, for use as fuel in the motor vehicle or motorboat or used by any person as a fuel in a motor vehicle or motorboat unless there was a prior taxable sale. No excise tax credit is provided for the sale or use of those fuels.

Liquid hydrogen is a special motor fuel for purposes of the tax on special motor fuels and is subject to a tax of 18.3 cents per gallon. Compressed hydrogen gas used or sold as a fuel is not subject to tax.

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 reduced rates of excise tax for most alcohol-blended fuels. In place of the reduced rates, the Act amended the Code to create two new excise tax credits: the alcohol fuel mixture credit and the biodiesel mixture credit. The sum of these credits may be taken against the tax imposed on taxable fuels (by 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. If the alcohol is ethanol with a proof of 190 or greater, the credit or payment amount is 51 cents per gallon. For agri-biodiesel, the credit or payment amount is $1.00 per gallon; for biodiesel other than agri-biodiesel, the credit or payment amount is 50 cents per gallon. Under the Code's coordination rules, a claim may be taken only once with respect to any particular gallon of alcohol or biodiesel.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the liquefied petroleum gas, and P Series fuels (as defined by the Secretary of Energy under 42

U.S.C. sec. 13211(2)) are taxed at 18.3 cents per gallon under section 4041. Compressed natural gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. Liquefied natural gas, any liquid fuel derived from coal (other than ethanol or methanol) and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon under section 4041. Under the provision, hydrogen (whether in liquid or gas form) is exempt from the tax imposed by section 4041; 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 alternative fuel credit, and the alternative fuel mixture 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 as a fuel in a highway vehicle or used by the taxpayer for use as a fuel in a highway vehicle. Liquid fuel derived from coal would only qualify for the credits if derived from the Fisher-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 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 may only be taken once with respect to any particular gallon or gasoline-gallon equivalent of alternative fuel.

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. 1535 of the Senate amendment, secs. 1344 and 1346 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 plus the biodiesel credit and is treated as a general business credit. The amount of the biodiesel fuels credit is includable in gross income. The biodiesel fuels credit is coordinated to take into account benefits from the biodiesel excise tax credit and payment provisions discussed below. 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, 2006.

Biodiesel is monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet (1) the registration requirements 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 Materials D6751. Agri-biodiesel is biodiesel derived solely from virgin oils including oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal 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 identifies the product produced and the percentage of the biodiesel and agri-biodiesel in the product.

Biodiesel mixture credit

The biodiesel mixture credit is 50 cents for each gallon of biodiesel used by the taxpayer 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. The sale or use must be in the trade or business of the taxpayer and is to be taken into account for the taxable year in which such sale or use occurs. No credit is allowed with respect to any casual off-farm production of a qualified biodiesel mixture.

Biodiesel credit

The biodiesel credit is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel (100 percent biodiesel or B–100) and which during the taxable year is (1) used by the taxpayer as a fuel in a trade or business or (2) sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle. For agri-biodiesel, the credit is $1.00 per gallon.

Biodiesel mixture excise tax credit

The Code also provides an excise tax credit for biodiesel mixtures.[81] The credit is 50 cents for each gallon of biodiesel used by the taxpayer in producing a biodiesel mixture for sale or use in a trade or business of the taxpayer. In the case of agri-biodiesel, the credit is $1.00 per gallon. A biodiesel mixture is a mixture of biodiesel and diesel fuel that (1) is 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 (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel 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 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 fuel mixture credit exceeds the section 4081 liability of a person, the Secretary is to pay such person an amount equal to the biodiesel fuel 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

No provision.

SENATE AMENDMENT

The 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)(3), thus excluding petroleum oil, natural gas, coal, or any product thereof) using a thermal depolymerization process. Renewable diesel must meet the requirements of the American Society of Testing and Materials D975 or D396, and meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 USC 7545). The amount of the credit for renewable diesel is $1.00 per gallon. In addition, all producers of renewable diesel must be registered with the Secretary.

Effective date.—The extension of incentives is effective on the date of enactment. The renewable diesel provisions are effective for fuel sold or used after December 31, 2005.

12. Credit for certain nonbusiness energy property (sec. 1317 of the House bill, sec. 1524 of the Senate amendment, sec. 1333 of the conference agreement, and new sec. 25C of the Code)

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 or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present law credit for energy efficiency improvements to existing homes.

HOUSE BILL

The provision provides a 20–percent credit for the purchase of qualified energy efficiency improvements to existing homes. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $2,000. A qualified energy efficiency improvement is any energy efficiency building envelope component that meets or exceeds the prescriptive criteria for such a component established by the 2000 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 remain in use for 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 taxpayer's basis 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

must be met in order to qualify for the credit.

Effective date.—The provision is effective for qualified energy efficiency improvements installed after the date of enactment and before January 1, 2008.

SENATE AMENDMENT

The provision provides a personal tax credit equal to the greater of (1) the total of the allowable credits for the purchase of certain property, or (2) the credit with respect to a highly energy-efficient principal residence.

The allowable credit for the purchase of certain property is (1) $50 for each advanced main air circulating fan, (2) $150 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $300 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 electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

A qualified natural gas, propane, or oil furnace or hot water boiler is a natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95.

Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

The credit with respect to a highly energy-efficient principal residence is $2,000 if the principal residence achieves a 50 percent reduction in energy costs relative to the original condition of the building. In the case of a new home, the original condition of the building is deemed to be a home constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and for which and any applicable Federal minimum efficiency standards for equipment are met. In the case of a principal residence that achieves a reduction in energy costs between 20 and 50 percent, the allowable credit is $4,000 times the percentage reduction. No credit is allowed in the case of energy cost savings of less than 20 percent.

The residence must be located in the United States, and, in the case of a new residence, not be acquired from a contractor eligible for a credit for the production of a new energy efficient home under Code section 45K (as added by the bill).

If a credit is allowed under Code section 25D (as added by the bill) relating to residential solar, photovoltaic and fuel cell property, for the purpose of measuring 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. Additionally, if a credit is 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 and be certified according to regulations established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative 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 (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).

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 nonbusiness purposes, only that portion of expenditures that is used for nonbusiness purposes is taken into account. If a credit is allowed under this provision with respect to any property, the basis of such property is reduced by the amount of the credit so allowed.

EFFECTIVE DATE.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment with modifications. The conference agreement follows the House bill with respect to energy efficient improvements to the building envelope, but the credit rate is reduced to 10 percent. The conference agreement includes the Senate amendment provisions related to (1) advanced main air circulating fans, (2) natural gas, propane, or oil furnace or hot water boilers and (3) qualified energy-efficient property, The conference agreement does not include the Senate amendment provision related to highly energy-efficient principal residences. The credit allowed under the conference agreement may not exceed $500 in total across all taxable years, and no more than $200 dollars of such credit may be attributable to expenditures on windows. There is no requirement for certification of expenditures.

The conference agreement modifies the energy efficiency requirements for qualifying central air conditioners to be the highest efficiency tier established by the Consortium for Energy Efficiency as in effect on Jan. 1, 2006.

The conference agreement also modifies the effective date.

EFFECTIVE DATE.—The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

13. Energy efficient commercial buildings deduction (sec. 1521 of the Senate amendment sec. 1331 of the conference agreement, and new sec. 179D of the Code)

PRESENT LAW

No special deduction is provided for expenses incurred for energy-efficient commercial building property.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The provision provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures is defined as property (1) which is installed on or in any building located in the United States that is within the scope of Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (''ASHRAE/IESNA''), (2) which is installed as part of (i) the interior lighting systems, (ii) the heating, cooling, ventilation, and hot water systems, or (iii) the building envelope, and (3) which is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets 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 property for which such expenditures are made. The deduction is allowed in the year in which the property is placed in service.

Certain certification requirements must be met in order to qualify for the deduction. The Secretary, in consultation with the Secretary of Energy, will promulgate regulations that describe methods of calculating and verifying energy and power costs using qualified computer software based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual.

The Committee intends that the methods for calculation be fuel neutral, such that the same energy efficiency features qualify a building for the deduction under this provision regardless of whether the heating source is a gas or oil furnace or boiler or an electric heat pump. The Committee also intends that the calculation methods provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1–2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following: (i) Natural ventilation (ii) Evaporative cooling (iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks(iv) Daylighting (v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating (vi) Improved fan system efficiency, including reductions in static pressure (vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors (viii) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy (ix) Wiring with lower energy losses than wiring satisfying Standard 90.1–2001 requirements for building power distribution systems. The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance

The Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the

Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems. Individuals qualified to determine compliance shall only be those recognized by one or more organizations certified by the Secretary for such purposes.

For energy-efficient commercial building property expenditures 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. Additionally, if a deduction is allowed for business energy property under section 1523 of the Senate amendment, or an individual credit for nonbusiness energy property or principal residence is allowed under section 1524 of the Senate amendment, then with respect to property for which a deduction under this provision may be claimed, the annual energy and power costs of the reference building is to be determined assuming the reference building contains the property for which the deduction or credit has been allowed, and any cost of such property taken into account under those other provisions of the bill cannot be taken into account under this provision.

Partial allowance of deduction

In the case of a building that does not meet the overall building requirement of a 50-percent energy savings, a partial deduction is allowed with respect to each separate building system that comprises energy efficient property and which is certified by a qualified professional as meeting or exceeding the applicable system-specific savings targets established by the Secretary of the Treasury. The applicable system-specific savings targets to be established by the Secretary are those that would result in a total annual energy savings with respect to the whole building of 50 percent, if each of the separate systems met the system specific target. The separate building systems are (1) the interior lighting system, (2) the heating, cooling, ventilation and hot water systems, and (3) the building envelope. The maximum allowable deduction is $0.75 per square foot for each separate system.

In the case of system-specific partial deductions, in general no deduction is allowed until the Secretary establishes system-specific targets. However, in the case of lighting system retrofits, until such time as the Secretary issues final regulations, the system-specific energy savings target for the lighting system is deemed to be met by a reduction in Lighting Power Density of 40 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 of ASHRAE/IESNA Standard 90.1–2001. Also, in the case of a lighting system that reduces lighting power density by 25 percent, a partial deduction of 37.5 cents per square foot is allowed. A pro-rated partial deduction is allowed in the case of a lighting system that reduces lighting power density between 25 percent and 40 percent. Certain lighting level and lighting control requirements must also be met in order to qualify for the partial lighting deductions.

Effective date.—The provision is effective for property placed in service after the date of enactment and prior to January 1, 2010.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement provides that the deduction amount is reduced to $1.80 per square foot, and that the partial deduction for building subsystems is reduced to $0.60 per square foot. The conference agreement also modifies the effective date.

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 energy property (sec. 1523 of the Senate amendment)

PRESENT LAW

There is no special deduction provided for energy-efficient property.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a deduction equal to the greater of (1) the total of the allowable deductions for the purchase of certain property, or (2) the allowable deduction with respect to energy-efficient residential rental building property.

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 electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

A qualified natural gas, propane, or oil furnace or hot water boiler is a natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95.

Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

The allowable deduction with respect to energy-efficient residential rental building property is $6,000 if the building achieves a 50 percent reduction in energy costs relative to the original condition of the building (in the case of new construction, the original condition of the building is deemed to be a building built to the standards necessary for compliance with applicable local building construction codes). In the case of a building that achieves a reduction in energy costs between 20 and 50 percent, the allowable deduction is $12,000 times the percentage reduction. No deduction is allowed in the case of energy cost savings of less than 20 percent. In order to be eligible for the deduction, the building's energy savings must be certified according to regulations established by the Secretary that follow various rules and procedures. In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property.

In order to be eligible for the deduction, the rental building's energy savings must be demonstrated by performance-based compliance and be certified according to regulations established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative 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 (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 allowable 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 so allowed.

Effective date.—The credit applies to property placed in service after the date of enactment and prior to January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

15. Energy efficient new homes (sec. 1522 of the Senate amendment, sec. 1332 of the conference agreement, and new sec. 45L of the Code)

PRESENT LAW

There is no present-law credit for the construction of new energy-efficient homes.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a credit to an eligible contractor for the construction of a qualified new energy-efficient home. To qualify as an energy-efficient new home, the home must be: (1) a dwelling located in the United States, (2) substantially completed after the date of enactment, and (3) certified in accordance with guidance prescribed by the Secretary to have a projected level of annual heating and cooling energy consumption that meets the standards for either a 30–percent or 50–percent reduction in energy usage, compared to a comparable dwelling constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and any applicable Federal minimum efficiency standards for equipment. With respect to homes that meet the 30–percent standard, one-third of such 30 percent savings must come from the building envelope, and with respect to homes that meet the 50–percent standard, one-fifth of such 50 percent savings must come from the building envelope.

The credit equals $1,000 in the case of a new home that meets the 30 percent standard

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 reduce heat loss or gain, exterior windows (including skylights), doors, and any duct sealing and infiltration reduction measures.

Manufactured homes that conform to federal manufactured home construction and safety standards are eligible for the credit provided all the criteria for the credit are met. Manufactured homes certified by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program are eligible for the $1,000 credit provided criteria (1) and (2), above, are met.

The credit is part of the general business credit. No credits attributable to energy efficient homes 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 the date of enactment, and which are purchased during the period beginning on the date of enactment and ending on December 31, 2009 (December 31, 2007 in the case of the $1,000 credit).

CONFERENCE AGREEMENT

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. The conference agreement also modifies the effective date.

Effective date.—The credit applies to homes whose construction is substantially completed after December 31, 2005, and which are purchased after December 31, 2005 and prior to January 1, 2008.

16. Energy credit for combined heat and power system property (sec. 1525 of the Senate amendment)

PRESENT LAW

A nonrefundable, 10-percent business energy 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 derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

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 or to improve the management of energy demand with respect to a dwelling unit (sec. 136).

There is no present-law credit for combined heat and power (''CHP'') property.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a 10-percent credit for the purchase of CHP property.

CHP property is property: (1) that uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications); (2) that has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of no more than 2000 horsepower or an equivalent combination of electrical and mechanical energy capacities; (3) that produces at least 20 percent of its total useful energy in the form of thermal energy that is not used to produce electrical or mechanical power, and produces at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof); and (4) the energy efficiency percentage of which exceeds 60 percent. CHP property does not include property used to transport the energy source to the generating facility or to distribute energy produced by the facility.

Additionally, the provision provides that systems whose fuel source is at least 90 percent bagasse and that would qualify for the credit but for the failure to meet the efficiency standard are eligible for a credit that is reduced in proportion to the degree to which the system fails to meet the efficiency standard. For example, a system that would otherwise be required to meet the 60-percent efficiency standard, but which only achieves 30-percent efficiency, would be permitted a credit equal to one-half of the otherwise allowable credit (i.e., a 5-percent credit).

Effective date.—The credit applies to periods after the date of enactment in taxable years ending after the date of enactment, for property placed in service before January 1, 2008, 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 does not include the Senate amendment provision.

17. Energy efficient appliances (sec. 1526 of the Senate amendment, sec. 1334 of the conference agreement, and new sec. 45M of the Code)

PRESENT LAW

There is no present-law credit for the manufacture of energy-efficient appliances.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a credit for the eligible production of certain energy-efficient dishwashers, clothes washers and refrigerators.

The credit for dishwashers applies to dishwashers produced in 2006 and 2007 that meet the Energy Star standards for 2007. The credit amount equals $3 multiplied by the percentage by which the efficiency of the 2007 standards (not yet known) exceeds that of the 2005 standards. The credit may not exceed $100 per dishwasher.

The credit for clothes washers equals (1) $50 for clothes washers manufactured in 2005 that have a modified energy factor (MEF) of at least 1.42, (2) $100 for clothes washers manufactured in 2005–2007 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2007, or (3) the minimum of (i) $200 or (ii) $10 multiplied by the average of the energy and water savings percentages of the 2010 Energy Star standards relative to the 2007 Energy Star standards, for clothes washers manufactured in 2008–2010 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2010.

The credit for refrigerators is based on energy savings and year of manufacture. The energy savings are determined relative to the energy conservation standards promulgated by the Department of Energy that took effect on July 1, 2001. Refrigerators that achieve a 15 to 20 percent energy saving and that are manufactured in 2005 or 2006 receive a $75 credit. Refrigerators that achieve a 20 to 25 percent energy saving receive a (i) $125 credit if manufactured in 2005–2007, or (ii) $100 credit if manufactured in 2008. Refrigerators that achieve at least a 25 percent energy saving receive a (i) $175 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.

A dishwasher is any a residential dishwasher subject to the energy conservation standards established by the Department of Energy. A refrigerator must be an automatic defrost refrigerator-freezer with an internal volume of at least 16.5 cubic feet to qualify for the credit. A clothes washer is any residential clothes washer, including a residential style coin operated washer, that satisfies the relevant efficiency standard.

The taxpayer may not claim credits in excess of $75 million for all taxable years, and may not claim credits in excess of $20 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 taxable 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).

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, but only with respect to the provisions that cover production after December 31, 2005 and prior to January 1, 2008.

Effective date.—The credit applies to appliances produced after December 31, 2005 and prior to January 1, 2008.

C. ALTERNATIVE MINIMUM TAX RELIEF PROVISIONS

1. Allow nonbusiness energy credits against the alternative minimum tax (sec. 1321 of the House bill)

PRESENT LAW

Present law imposes an alternative minimum tax on individuals in an amount equal to the excess of the tentative minimum tax over the regular tax liability. The tentative minimum tax is an amount equal to specified rates of tax imposed on the excess of the alternative minimum taxable income over an exemption amount.

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. The tentative minimum tax is an amount equal to specified rates of tax imposed on the excess of the alternative minimum taxable income over an exemption amount.

Generally, the general business credit may not exceed the excess of the regular tax liability over the tentative minimum tax (or, if greater, 25 percent of so much of the regular tax liability as exceeds $25,000). Amounts in excess of this limitation generally may be carried back one year and forward 20 years. In applying the tax limitation to certain business energy credits, the tentative minimum tax is treated as being zero. These credits include the alcohol fuels credit and the section 45 credit for electricity produced from a facility (placed in service after October 22, 2004) during the first four years of production beginning on the date the facility is placed in service.

HOUSE BILL

The House bill 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) the marginal oil and gas well production credit, (iii) the portion of the investment credit attributable to qualified fuel cells, and (iv) for taxable years beginning after December 31, 2005, and before January 1, 2008, the enhanced oil recovery credit.

Effective date.—The provision generally applies to credits determined for taxable years beginning after December 31, 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. 1541 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 recoverable. The quantity of cushion gas that is recoverable is not subject to depreciation because it is not subject to exhaustion, wear, tear, or obsolescence. Conversely, nonrecoverable cushion gas is subject to obsolescence and is therefore subject to tax depreciation. The depreciable life of non-recoverable 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 MACRS property. The present law treatment 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

General rule

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) paid for basic research conducted by universities (and certain 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 adjusted for inflation. This separate credit computation is commonly referred to as the university basic research credit (see sec. 41(e)).

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 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 one percent (i.e., the base amount equals one percent 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 two 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 two 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 applies to that 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 on the taxpayer's behalf (so-called contract research expenses). In the case of amounts paid to a research consortium, 75 percent of amounts paid for qualified research is treated as qualified research 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 (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 for the deduction for research expenses, but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component.

HOUSE BILL

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 taxpayer may claim a credit equal to 20 percent of the taxpayer's expenditures on qualified energy research undertaken 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, not only those in excess of a base amount however determined. An energy research consortium is a qualified research consortium as under present law that also is organized and operated primarily to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, to be a qualified energy research consortium no single person shall pay or

incur more than 50 percent of the total amounts received by the research consortium during the calendar year.

The provision also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business for this purpose is a business in which the taxpayer does not own a 50 percent or greater interest and the business has employed, on average, 500 or fewer employees in the two preceding calendar years.

Qualified energy research expenditures are expenditures that would otherwise qualify for the research credit under present law and relate to the production, supply, and conservation of energy, including otherwise qualifying research expenditures related to alternative energy sources or the use of alternative energy sources. For example, research relating to hydrogen fuel cell vehicles would qualify under this provision, if the research expenditures otherwise satisfy the criteria of present-law sec. 41. Likewise, otherwise 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.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Small agri-biodiesel producer credit (sec. 1543 of the Senate amendment, sec. 1345 of the conference agreement, and sec. 40A of the Code)

PRESENT LAW

Biodiesel income tax credit

The Code provides an income tax credit for biodiesel and qualified biodiesel mixtures, the biodiesel fuels credit. The biodiesel fuels 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 fuels credit is includable in gross income. The biodiesel fuels credit is coordinated to take into account benefits from the biodiesel excise 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, 2006.

Biodiesel is monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet (1) the registration requirements 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 Materials D6751. Agri-biodiesel is biodiesel derived solely from virgin oils including oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal 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 identifies the product produced and the percentage of the biodiesel and agri-biodiesel 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 renewable 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 for up to 15 million gallons per year for small producers, defined generally as persons whose production does not exceed 15 million gallons per year and whose production capacity does not exceed 30 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of al qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons. The alcohol fuels tax credits are includible in income. This credit may be used to offset alternative minimum tax liability. The credit is a treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The alcohol fuels tax credit is scheduled to expire after December 31, 2010.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment adds to the biodiesel fuels credit a small agri-biodiesel producer credit. The credit is a 10-cents-per-gallon credit for up to 15 million gallons of agri-biodiesel produced by small producers, defined generally as persons whose agri-biodiesel production capacity does not exceed 60 million gallons per year. The agri-biodiesel must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified biodiesel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such agri-biodiesel at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

Like the small ethanol producer credit, cooperatives may elect to pass through any portion of the small agri-biodiesel producer credits to its patrons. The credit is apportioned pro rata among patrons of the cooperative on the basis of the quantity or value of the business done with or for such patrons for the taxable year. An election to pass through the credit is made on a timely filed return for the taxable year and is irrevocable for such taxable year.

The amount of the credit not apportioned to patrons is included in the organization's credit for the taxable year of the organization. The amount of the credit apportioned to patrons is to be included in the patron's credit for the first taxable year of each patron ending on or after the last day of the payment period for the taxable year of the organization, or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

If the amount of the cooperative's credit for a taxable year is less than the amount of the credit shown on the organization's tax return for such taxable year, an amount equal to the excess of the reduction in the credit over the amount not apportioned to patrons for the taxable year is treated as an increase in the cooperative's tax. The increase is not treated as tax imposed for purposes of determining the amount of any tax credit or for purposes of the alternative minimum tax.

The credit sunsets after December 31, 2010, along with the other biodiesel incentives as extended under the Senate amendment.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except the credit sunsets after December 31, 2008.

4. Modifications to small ethanol producer credit (sec. 1544 of the Senate amendment, sec. 1347 of the conference agreement, and sec. 40 of the Code)

PRESENT LAW

Present law provides several tax benefits for ethanol and methanol that are used as a 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 producers, defined generally as persons whose production capacity does not exceed 30 million gallons per year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the limit on production capacity for small ethanol producers from 30 million gallons to 60 million gallons per year.

The Senate amendment also provides that an election to pass the small ethanol producer credit through to cooperative patrons is not valid unless the cooperative provides patrons timely written notice of the apportionment of the credit. Under the Senate amendment, notice is timely if mailed to patrons during the payment period described in section 1382(d) of the Code.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

5. Credit for equipment for processing or sorting materials gathered through recycling (sec. 1545 of the Senate amendment and sec. 1353 of the conference agreement)

PRESENT LAW

There is no present law credit for equipment for processing or sorting materials gathered through recycling.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a 15-percent business tax credit for the cost of qualified recycling equipment placed in service or leased by the taxpayer. Qualified recycling equipment is equipment, including connecting piping, (1) that is employed in sorting or processing residential and commercial qualified recyclable materials (any packaging or printed material which is glass, paper, plastic, steel, or aluminum generated by an individual or business) for the purpose of converting such materials for use in manufacturing tangible consumer products, including packaging, or (2) whose primary purpose is the shredding and processing of any electronic waste, including any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than four inches measured diagonally, or a central processing unit.

Qualified 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 commercial or public venues, including 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 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, plastic, steel, aluminum, and electronic devices, and to identify tax incentives that would encourage recycling of such material. 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 applied to the earliest of the taxable years to which the loss may be carried.

Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction).

Section 202 of the Job Creation and Worker Assistance Act of 2002 (''JCWAA'') provided a temporary extension of the general NOL carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. In addition, the five-year carryback period applies to NOLs from these years that qualify under present law for a three- year carryback period (i.e., NOLs arising from casualty or theft losses of individuals or attributable to certain Presidentially declared disaster areas).

A taxpayer can elect to forgo the five-year carryback period. The election to forgo the five-year carryback period is made in the manner prescribed by the Secretary of the Treasury and must be made by the due date of the return (including extensions) for the year of the loss. The election is irrevocable. If a taxpayer elects to forgo the five-year carryback period, then the losses are subject to the rules that otherwise would apply under section 172 absent the provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a temporary extension of the NOL carryback period to five years for NOLs of certain electric utility companies arising in taxable years ending in 2003, 2004, and 2005 (''eligible NOLs''). Regardless of the taxable year in which an eligible NOL arose, refund claims resulting from the extended carryback period can be made during any taxable year ending after December 31, 2005, and before January 1, 2009. However, the amount of the refund claimed during any one taxable year may not exceed the amount of the electric utility company's investment in electric transmission property and pollution control facilities (''qualifying investment'') in the preceding taxable year. The present-law NOL carryover ordering rules apply. Taxpayers may elect to forgo the five-year carryback period provided under the provision if an election is filed before January 1, 2009.

Effective date.—The Senate amendment provision is effective for refund claims resulting from net operating losses generated in taxable years ending in 2003, 2004, and 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with the following modifications. 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 (''loss years''). The election may be made during any taxable year ending after December 31, 2005, and before January 1, 2009 (''election years''). An electing taxpayer must specify to which loss year the election applies.

The portion of the loss year NOL to which the election may apply is limited to 20 percent of the amount of the taxpayer's qualifying investment in the taxable year prior to the year in which the election is made (the ''qualifying investment limitation''). 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 carryover rules. Only one election may be made in 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 short 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 five-year NOL carryback elected under this provision is deemed not to have been made prior to the filing date 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 conferees expect that the filing of a refund claim will be considered sufficient for making the election, provided that the taxpayer attaches to the refund claim 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 preceding taxable year.

Under the conference agreement, an investment in electric transmission property qualifies if it is a capital expenditure made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electricity for sale.

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 as defined under section 169(d)(1) 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 conferees 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 transmission property or pollution control facilities be placed in service in the year in which the capital expenditures are incurred. However, it is intended that qualifying investment under the provision includes only capital expenditures to which the taxpayer is committed and with respect to property which the taxpayer intends to ultimately place in service in the taxpayer's trade or business. Under the conference agreement, capital expenditures which, at the taxpayer's option, are refundable or subject to material modification in a manner which would not meet the requirements of the provision, may not be taken into account. For example, if a taxpayer makes a cash deposit with respect to a contract for the purchase of electric transmission property, and the contract contains an option (or there is otherwise an understanding) under which the taxpayer may subsequently apply the deposit to the purchase of equipment other than electric transmission property, the deposit is not included in the taxpayer's qualifying investment. This rule is intended as an anti-abuse rule and should be interpreted to prevent a taxpayer from taking into account capital expenditures to which the taxpayer is not permanently committed.

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 arising in taxable years ending in 2003, 2004, and 2005.

7. Qualifying pollution control equipment credit (sec. 1547 of the Senate amendment)

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 qualifying facility during the taxable year. Qualifying pollution control equipment means any technology that is installed in or on a qualifying facility 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, flair systems, bag houses, cyclones, and continuous emission monitoring systems. A 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 qualifying pollution control equipment 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 transitional rules set forth in 48(m) (as in effect before its repeal).

CONFERENCE AGREEMENT

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 with respect to certain non-gaming property used in a trade or business within an Indian reservation (sec. 168(j)); and (2) a nonrefundable income tax credit to employers 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 inflation beginning in 1993) (sec. 45A). Both credits expire after December 31, 2005.

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 Indians 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 $2.00 per ton for coal sold after 2009. The credit is indexed for inflation 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.

CONFERENCE AGREEMENT

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 report along with descriptions of other modifications to Code section 45.

9. Replacement stoves meeting environmental standards in non-attainment areas (sec. 1549 of the Senate amendment)

PRESENT LAW

There is no present law tax credit relating to stoves.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a $500 credit for the replacement of a non-compliant wood stove with a solid fuel burning stove that complies with the Environmental Protection Agency's (''EPA'') emission performance standards. In general, a non-compliant wood stove is any wood stove purchased prior to June 30, 1992. Stoves produced after June 30, 1992 must comply with EPA's Standards of Performance for Residential Wood Heaters. The credit is only available for replacements that occur in areas designated by the EPA as non-attainment areas for particulate matter less than 2.5 micrometers in diameter or non-attainment areas for particulate matter less than 10 micrometers in diameter.

Effective date.—The credit applies to solid fuel burning stoves purchased after the date of enactment and before January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Exemption for bulk beds from excise tax on retail sale of heavy trucks and trailers (sec. 1550 of the Senate amendment)

PRESENT LAW

The Code imposes a 12-percent excise tax on the first retail sale of heavy trucks and trailers (chassis and bodies). Under present law, the tax on the first retail sale of automobile truck bodies does not apply to any body primarily designed: (1) to process or prepare seed, feed, or fertilizer for use on farms; (2) to haul feed, seed, or fertilizer to and on farms; (3) to spread feed, seed, or fertilizer on farms; (4) to load or unload feed, seed, or fertilizer on farms; or (5) for any combination of the foregoing.

The IRS has issued various rulings in this area. In Revenue Ruling 69–579, the IRS found that a truck body used primarily for hauling animal and poultry feed to and unloading it on farms qualified for exemption because the built-in equipment was elaborate and expensive. Thus, the IRS concluded that the nature of the unloading systems made it impractical to purchase the bodies for use other than in hauling feed, seed, or fertilizer to and unloading it on farms.

In 1975, the IRS ruled as not exempt a dump truck designed for and used primarily in hauling grain and sugar beets from the field to points on or off the farm but which may also be used to haul feed or fertilizer from a distribution point over the highway to the farm. The ruling concluded that bodies that are used for the general hauling of feed, seed, or fertilizer over the highway are subject to the tax unless they have specific features that indicate they are primarily designed to haul feed, seed, or fertilizer to and on farms. In this case, although feed and fertilizer were among the commodities that the dump truck could be used for, it did not have specific features to indicate that it was primarily designed to haul feed, seed, or fertilizer to and on farms.

In 1990, the IRS issued a technical advice memorandum (''the 1990 TAM'') that concluded that a type of truck bought by farmers to haul seed potatoes, sugar beets, grain, and other farm products qualified for exemption. Each model had a full-length, powered conveyor belt that was designed to support and unload the cargo; a powered rear discharge door to control the discharge rate of the cargo; and a standard universal motor mount to which an electric drive could be mounted. In that ruling, the IRS noted the special unloading equipment was elaborate and expensive, added substantially to the cost and weight of each body, and limited its load-carrying capabilities.

In 1999, the IRS revoked the 1990 TAM prospectively, noting that the exemption was not intended to cover truck bodies designed for general use, even if capable of hauling feed, seed, or fertilizer to and on farms. The IRS noted that the sales literature indicated that the body was designed to be versatile for hauling potatoes, beets, and small grains. The IRS also observed that unlike the bodies described in Rev. Rul. 69–579, which would not be purchased for use other than in hauling feed, seed, or fertilizer, the bodies at issue are designed for general hauling of farm cargo. Further, the IRS found that the presence of a conveyor belt was equally useful for unloading a crop at market as it is for unloading feed, etc. on a farm. Thus, the IRS concluded that the truck body was not primarily designed for an exempt purpose.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment exempts bulk beds used for transporting farm crops to and on farms from the excise tax on the retail sale of heavy trucks and trailers if sold to a person who certifies to the seller that such person is actively engaged in the trade or business of farming and the primary use of the bulk bed is to haul to and on farms farm crops grown in connection with such trade or business. The Senate amendment provides for the recapture of the tax from the purchaser upon resale of within two years of the first retail sale, or if such purchaser makes substantial nonexempt use of the article.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. National Academy of Sciences study (sec. 1551 of the Senate amendment and sec. 1352 of the conference agreement)

PRESENT LAW

Present law does not provide for a study of the health, environmental, security, and infrastructure external costs that may be associated with the use and production of energy.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision requires the Secretary of Treasury to enter into an agreement, within 60 days, with the National Academy of Sciences to conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with production and consumption of energy that are not or may not be fully incorporated into the price of such activities, or into the Federal tax or fee or other applicable revenue measure related to such activities. The results of the study are to be submitted to Congress within two years of the agreement.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

12. Income tax exclusion for certain fuel costs of rural carpoolers (sec. 1552 of the Senate amendment)

PRESENT LAW

Under present law, qualified transportation benefits are excludable from gross income and wages for employment tax purposes. Qualified transportation benefits are: (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment (''van pooling''); (2) transit passes; and (3) qualified

parking. 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 driver); and (2) at least 80 percent of the mileage use of which can reasonably be expected to be (a) for purposes of transporting employees in connection with travel between their residences and their place of employment and (b) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating 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 van pooling benefits that are excludable from income and wages per month is $105 (for 2005). These dollar amounts are indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment establishes a new qualified transportation fringe benefit. Employer reimbursement for certain fuel costs (up to $50 per month) of employees who meet rural carpool requirements are excluded from a taxpayer's gross income (but not wages) as a qualified transportation fringe benefit. To be eligible for the benefit, the employee must: (1) reside in a rural area; (2) not be eligible for transit or vanpooling benefits provided by the employer; (3) use the employee's vehicle when traveling between the employee's residence and place of employment; and (4) for at least 75 percent of the total mileage of such travel, be accompanied by one or more employees of the same employer. In addition, the premises of the employer must be located in an area that is not accessible by a transit system designed primarily to provide daily work trips within a local commuting area.

Effective date.—The Senate amendment is effective for expenses incurred on or after the date of enactment and before January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

13. Three-year applicable recovery period for depreciation of qualified energy management devices (sec. 1553 of the Senate amendment)

PRESENT LAW

No special recovery period is provided for depreciation of energy management devices.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides a three-year recovery period for qualified new energy management devices placed in service by any taxpayer who is a supplier of electric energy or is a provider of electric energy services. A qualified energy management device is any meter or metering device which is used by the taxpayer (1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and (2) to provide such data on at least a monthly basis to both consumers and the taxpayer. Additionally, the original use of the energy management device must commence with the taxpayer, and the purchase must be subject to a binding contract entered into after June 23, 2005, and only if there was no written binding contract entered into on or before such date.

Effective date.—The provision applies to taxable years ending after December 31, 2005, for property placed in service after the December 31, 2005 and prior to January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

14. Exception from volume cap for certain cooling facilities (sec. 1554 of the Senate amendment)

PRESENT LAW

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 the proceeds of the 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 bonds to finance activities of private persons (''private activity bonds'') is taxable unless a specific exception is contained in the Code (or in a non-Code provision of a revenue Act). The term ''private person'' 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 certain 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 (in whole or in part) to annual State volume limitations (''State volume cap''). For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million. Exceptions are provided for bonds issued to finance certain governmentally owned facilities (airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (public/private educational facilities, enterprise zone facility bonds, and qualified green building/sustainable design projects).

HOUSE BILL

No provision.

SENATE AMENDMENT

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 that are designed to access deep water cooling sources for building air conditionings if the aggregate face amount of bonds issued with respect to such a facility is not more than $75 million.

Effective date.—The provision applies to projects placed in service after the date of enactment and before July 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

E. REVENUE RAISING PROVISIONS

1. Treatment of kerosene for use in aviation (sec. 1561 of the Senate amendment)

PRESENT LAW

In general, aviation-grade kerosene is taxed at a rate of 21.8 cents per gallon upon removal of such fuel from a refinery or terminal (or entry into the United States) and 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 or for a use that is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax), or is removed or entered as part of an exempt bulk transfer. These taxes are credited to the Airport and Airway Trust Fund. If taxed aviation-grade kerosene is used for a nontaxable use, a claim for credit or refund may be made. Such claims are paid from the Airport and Airway Trust Fund to the general fund of the Treasury. All other removals and entries of kerosene used for surface transportation are taxed at the diesel tax rate of 24.3 cents per gallon, and these taxes are credited to the Highway Trust Fund. If aviation-grade kerosene is taxed upon removal or entry but fraudulently diverted for surface transportation, the taxes remain in the Airport and Airway Trust Fund, and the Highway Trust Fund is not credited for the taxes on such fuel.

A special rule of present law addresses whether a removal from a refueler truck, tanker, or tank wagon may be treated as a removal from a terminal for purposes of determining whether aviation-grade kerosene is removed directly into the wing of an aircraft for use in commercial aviation, and so eligible for the 4.3 cents per gallon rate. For the special rule to apply, a qualifying truck, tanker, or tank wagon must be loaded with aviation-grade kerosene from a terminal: (1) that is located within a secured area of an airport, and (2) from which no vehicle licensed for highway use is loaded with aviation fuel, except in exigent circumstances identified by the Secretary in regulations. In order to qualify for the special rule, a refueler truck, tanker, or tank wagon must: (1) be loaded with fuel for delivery only into aircraft at the airport where the terminal is located; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) not be registered for highway use; and (4) 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 and on 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 (1) directly into the fuel tank of an aircraft for use in aviation other than commercial aviation and (2) from refueler trucks, tankers, and tank wagons that are loaded with fuel from a terminal that is located in 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 special rule related 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 refueler truck, tanker, or tank wagon 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, and the kerosene 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. If kerosene is used for noncommercial aviation, the amount is 2.5 cents; if kerosene is used for commercial aviation, the amount is 20 cents; if kerosene is used for a use that is exempt from tax (as determined under present law), the amount is 24.3 cents. Present law rules with respect to claims apply, except for claims with respect to kerosene used in noncommercial aviation, which are payable to the ultimate vendor only. To be eligible to receive a payment, a vendor must be registered and must show either that the price of the fuel did not include the tax and the tax was not collected from the purchaser, the amount of tax was repaid to the ultimate purchaser, or the written consent of the purchaser to the making of the claim was filed with the Secretary.

Under the Senate amendment, all taxes collected at the 24.3 cents per gallon rate (under section 4081) initially are credited to the Highway Trust Fund. The provision requires the Secretary to transfer at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts equivalent to 21.8 cents per gallon for claims made with respect to kerosene used for noncommercial aviation purposes and 4.3 cents per gallon for claims made with respect to kerosene used for commercial aviation purposes. The provision requires that transfers be made on the basis of estimates by the Secretary, with proper adjustments to be made subsequently to the extent prior estimates were in excess of or less than the amounts required to be transferred. Transfers are required to be made with respect to taxes received on or after October 1, 2005, and before October 1, 2011. The provision provides that the Airport and Airway Trust Fund does not make payments with respect to kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes.

Effective date.—The Senate amendment is effective for fuels or liquids removed, entered, or sold after September 30, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Repeal of ultimate vendor refund claims with respect to farming (sec. 1562 of the Senate amendment)

PRESENT LAW

In general—ultimate purchaser refunds for nontaxable uses

In general, the Code provides that if diesel fuel or kerosene on which tax has been imposed is used by any person in a nontaxable use, the Secretary is to refund (without interest) to the ultimate purchaser the amount of tax imposed. The refund is made to the ultimate purchaser of the taxed fuel by either income tax credit or refund payment. Not more than one claim may be filed by any person with respect to fuel used during its taxable year. However, there are exceptions to this rule.

An ultimate purchaser may make a claim for a refund payment for any quarter of a taxable year for which the purchaser can claim at least $750. If the purchaser cannot claim at least $750 at the end of quarter, the amount can be carried over to the next quarter to determine if the purchaser can claim at least $750. If the purchaser cannot claim at least $750 at the end of the taxable year, the purchaser must claim a credit on the person's income tax return.

As discussed below, these ultimate purchaser refund rules do not apply to diesel fuel or kerosene used on a farm. The Code precludes the ultimate purchaser from claiming a refund for such use. Instead, the refund claims are made by registered vendors as described below.

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 vendors (''registered ultimate vendor'') of such fuels. Thus a 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 of a farm for use by that person on a 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 cultivating, raising or harvesting. 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

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 nontaxable uses of diesel fuel or kerosene.

Effective date.—The provision is effective for sales after September 30, 2005.

CONFERENCE AGREEMENT

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 supplies for vessels or aircraft, for export, or for the production of special fuels, the wholesale distributor that sold such gasoline was treated as the only person who paid the tax and thereby was the proper claimant for a credit or refund of the tax paid. A ''wholesale distributor'' included any person, other than an importer or producer, who sold gasoline to producers, retailers, or to users who purchased in bulk quantities and accepted delivery into bulk storage tanks. A wholesale distributor also included any person who made retail sales of gasoline at 10 or more retail motor fuel outlets.

Under a special administrative exception to these rules, a sale of gasoline charged on an oil company credit card issued to an exempt person described above is not considered a direct sale by the person actually selling the gasoline to the ultimate purchaser if the seller receives a reimbursement of the tax from the oil company (or indirectly through an intermediate vendor). Thus, the person that actually paid the tax, in most cases the oil company, is treated as the only person eligible to make the refund claim.

The American Jobs Creation Act of 2004 (''AJCA'') modified the pre-existing statutory rules with respect to certain sales. Under AJCA, if a registered ultimate vendor purchases any gasoline on which tax has been paid and sells such gasoline to a State or local government or to a nonprofit educational organization, for its exclusive use, such ultimate vendor is treated as the only person who paid the tax and thereby is the proper claimant for a credit or refund of the tax paid. However, AJCA did not change the special administrative oil company credit card rule described above.

In addition, under AJCA, refund claims made by such an ultimate vendor may be filed for any period of at least one week for which $200 or more is payable. Any such claim must be filed on or before the last day of the first quarter following the earliest quarter included in the claim. The Secretary must pay interest on refunds unpaid after 45 days. If the refund claim was filed by electronic means, and the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified for highway exempt use as a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.

In the case of diesel fuel or kerosene used in a nontaxable use, the ultimate purchaser is generally the only person entitled to claim a refund of excise tax. However, in the case of diesel fuel or kerosene used on a farm for farming purposes or by a State or local government, aviation-grade kerosene, and certain nonaviation-grade kerosene, an ultimate vendor may claim the refund if the ultimate vendor is registered and bears the tax (or receives the written consent of the ultimate purchaser to claim the refund).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment replaces the oil company credit card rule with a new set of rules applicable to certain credit card sales. 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, in the case of gasoline, a nonprofit educational organization, for its exclusive use, a credit card issuer who is registered and who extends such credit to the ultimate purchaser with respect to such purchase shall be the only person entitled to apply for a credit or refund if the following two conditions are met: (1) such registered person has not collected the amount of the tax from the purchaser, or has obtained the written consent of the ultimate purchaser to the allowance of the credit or refund; and (2) such registered person has either repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has otherwise made arrangements that directly or indirectly provide the ultimate vendor with reimbursement of such tax. It is anticipated that such indirect arrangements may consist of the contractual undertaking of the relevant oil company to the credit card issuer that it will pay the amount of the tax to the ultimate vendor, and the corresponding contractual undertaking of the oil company to the ultimate vendor.

If a credit card issuer is not registered, or if either condition (1) or (2) described above is not met (or if the ultimate purchaser is not exempt), then the credit card issuer is required to collect an amount equal to the tax from the ultimate purchaser and only an (exempt) ultimate purchaser may claim a credit or payment from the IRS. Thus, tax-paid fuel shall not be sold tax free to an exempt entity by means of a credit card unless the credit card issuer is registered. An unregistered credit card issuer that does not

collect an amount equal to the tax from the exempt entity is liable for present-law penalties for failure to register.

A credit card issuer entitled to claim a refund under the provision is responsible for collecting and supplying all the appropriate documentation currently required from ultimate vendors. The present-law refund amount and timing 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-credit 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 gasoline sold to a State or local government or to a nonprofit educational 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, for its exclusive use, a claimant must submit a statement indicating that it possesses evidence of the exempt use giving rise to the overpayment of tax. Such evidence consists of a certificate executed and signed by the ultimate purchaser, and must identify the article, show the name and address of the ultimate purchaser, and state the exempt use made or to be made of the article. In the case where the certificate sets forth the use to be made of the article, rather than its actual use, it must show that the ultimate purchaser has agreed to notify the claimant if the article is not in fact used as specified in the certificate.

However, if the article to which the claim relates has passed through a chain of sales from the claimant to the ultimate purchaser, a certificate executed and signed by the ultimate vendor is sufficient to document the exempt use. The ultimate vendor certificate must contain the exempt sales information, and a statement that it possesses the ultimate purchaser certificates and will forward them to the claimant within three years from the date of the statement. An ultimate vendor statement may be made covering no more than 12 consecutive calendar quarters.

In general, an ultimate purchaser is the proper party to claim a refund of Federal excise tax on diesel fuel or kerosene used by any person in a nontaxable use. However, in the case of diesel or kerosene used by a State or local government, the ultimate vendor is the proper person if such vendor is registered and has borne the tax (or receives the written consent of the ultimate purchaser to claim the refund). A registered ultimate vendor claiming a refund under this provision must provide a statement that it has in its possession an unexpired exemption certificate of the purchaser and that the claimant has no reason to believe any information in the certificate is false.

A State or local government includes any political subdivision of a State, or the District of Columbia. A nonprofit educational organization means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and which either is exempt from income tax under section 501(a) or is a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, additional documentation requirements are imposed with respect to purchases of taxable fuel and certain other articles on a nontaxable basis by State or local governments and nonprofit educational organizations and with respect to refunds or credits by any person with respect to such purchases. The Senate amendment covers 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), heavy trucks and trailers, recreational equipment (bows and arrows, sport fishing equipment and firearms), and tires (except for tires sold for use on qualified buses). The Senate amendment does not cover Federal excise taxes on sales of coal and vaccines.

In addition to present-law documentation requirements, in order for a State or local governmental entity to claim exemption from tax on sales of such covered articles, or for any person to claim a credit or refund based upon the State or local governmental status of the purchaser of such articles, the State must certify that the article is sold to a State or local government for the exclusive use of a State or local government. In the case of articles sold to a qualified volunteer fire department, as defined in section 150(e)(2), the State must so certify, and the article must be sold for the exclusive use of the qualified volunteer fire department.

In order for a nonprofit educational organization to claim exemption from tax on such articles, or for any person to claim a credit or refund of tax on such articles based upon the nonprofit educational status of an organization, the State in which such organization is providing educational services must certify that such organization is in good standing.

For purposes of this provision, an Indian tribal government is treated as a State. Consequently, it is intended that the applicable Indian tribal government will provide the certifications under this provision.

It is intended that the certifications required under this provision will be provided by exempt purchasers to the refund claimants (in addition to documentation required under present law), and that the IRS may require that such certifications be submitted as part of the claims. The Secretary may prescribe forms for such certifications.

Effective date.—The provision is effective for all sales after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Reregistration in event of change in ownership (sec. 1565 of the Senate amendment)

PRESENT LAW

Blenders, enterers, pipeline operators, position 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 transactions), more than 50 percent of the ownership interests in, or assets of, a registrant are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). 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.

6. Registration of operators of deep-draft vessels (sec. 1566 of the Senate amendment)

PRESENT LAW

Blenders, enterers, pipeline operators, position 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. Treasury regulations define a vessel operator as any person that operates a vessel within the bulk transfer/terminal system, excluding deep-draft ocean-going vessels. Accordingly, operators of deep-draft ocean-going vessels are not required to register. A deep-draft ocean-going vessel is a vessel that is designed primarily for use on the high seas that has a draft of more than 12 feet.

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 kerosene (''taxable fuel'') are taxed upon removal from a refinery or a terminal. Tax also is imposed on the entry into the United States of any taxable fuel for consumption, use, or warehousing. The tax does not apply to any removal or entry of a taxable fuel transferred in bulk (a ''bulk transfer'') by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery

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 ocean-going vessel 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 ocean-going 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 the entry of 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 promulgate 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 lading 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 laden 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, taxable fuels are not required to file the Cargo Declaration within 24 hours before such cargo is laden 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 of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, is to establish an electronic data interchange system through which Customs shall transmit to the Internal Revenue Service information pertaining to cargoes of taxable fuels (as defined in section 4083) that Customs has obtained electronically under its regulations adopted to carry out the Trade Act of 2002 requirement. For this purpose, not later than one year after the date of enactment, all filers of required cargo information for such taxable fuels, as defined, must provide such information to Customs through its approved electronic data interchange system.

Effective date.—The 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, 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 upon (1) the removal of any taxable fuel from a refinery or terminal, (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 registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry. The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.

Gasoline blend stocks

Definition

Under the regulations, ''gasoline'' includes all products commonly or commercially known or sold as gasoline and are suitable for use as a motor fuel, and that have an octane rating of 75 or more. Gasoline also includes, to the extent provided in regulations, gasoline blend stocks and products commonly used as additives in gasoline. By regulation, the Treasury has identified certain products as gasoline blend stocks, however, the term ''gasoline blend stocks'' 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.

Gasoline blend stocks not used to produce finished gasoline.—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 to produce finished gasoline. In connection with a sale, no tax is imposed on the nonbulk removal or entry if (1) the person liable for the tax is a gasoline registrant and (2) at the time of sale such party has an unexpired certificate from the buyer, and has no reason to believe any information in the certificate is false.

Any sale (or resale) of a gasoline blend stock that was not subject to tax on nonbulk removal or entry is taxable unless the seller has an unexpired certificate from the buyer and has no reason to believe that any information in the certificate is false.

The certificate to be provided by a buyer of gasoline blend stocks contains a statement that the gasoline blend stocks covered by the certificate will not be used to produce finished gasoline, identifies the type (or types of blend stocks) covered by the certificate and provides that the buyer will not claim a credit or refund for any gasoline covered by the certificate. The certificate is signed under penalties of perjury by a person with authority to bind the buyer. The certificate expires on the earliest of one year from the effective date of the certificate, the date a new certificate is provided to the seller or the date the seller is notified by the IRS or the buyer that the buyer's right to provide a certificate has been withdrawn.

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, has an unexpired notification 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 used to notify another person of the taxable fuel registrant's registration status.

Bulk transfer to an industrial user.—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 that is an industrial user. An industrial user means any person that receives 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 is to pay (without interest) to such person, 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 an off-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 this 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 if the subsequent manufacturer or producer uses the fuel, for nonfuel purposes, as a material 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 1655 (kerosene-type jet fuel), and military specifications MIL–DTL–5624T (Grade JP–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 obtained by distillation of crude oil. Mineral spirits are used for a wide variety of purposes, such as in dry-cleaning fluids, paint thinners, varnishes, photocopy toners, inks, adhesives, and as general purpose cleaners and degreasers.

Exemptions

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose. Kerosene received by pipeline or vessel to satisfy a feedstock purpose is exempt from the dyeing requirement. Pursuant to Treasury regulations, nonbulk removals of kerosene for a feedstock purpose by a registered feedstock user also are exempt. The person receiving the kerosene must be registered with the IRS and provide a certificate noting that the kerosene will be used for a feedstock 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 a taxable fuel registrant and such person uses the kerosene for a feedstock purpose.

''Feedstock purpose'' means the use of kerosene for nonfuel purposes in the manufacture or production of any substance (other than gasoline, diesel fuel or special fuels subject to tax). Thus, for example, kerosene is used for a feedstock purpose when it is used as an ingredient in the production of paint and is not used for a feedstock purpose when it is used to power machinery at a factory where paint is produced.

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 4041(a)(1) other than by reason of prior imposition of tax. Claims relating to kerosene used on a farm for farming purposes and by a State 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 during periods of extreme or unseasonable cold are also made by registered ultimate vendors. Special rules apply with respect to aviation-grade kerosene.

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, as a material in the manufacture or production of any other article manufactured or produced by him.

HOUSE BILL

No provision.

SENATE AMENDMENT

Gasoline blend stocks

The Senate amendment partially repeals exemptions provided in Treas. Reg. sec. 48.4081–4, which, under certain conditions, exempts from tax gasoline blend stocks that are not used to produce finished gasoline or that are received at an approved terminal or refinery. Under the Senate amendment, tax is imposed on all nonbulk entries and removals of gasoline blend stocks, regardless of whether they will be used to produce finished gasoline or received at an approved terminal or refinery. The Senate amendment does not change the exemption for bulk transfers to registered industrial users.

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. 1569 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 upon (1) the removal of any taxable fuel from a refinery or terminal, (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 registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry. The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.

Special provisions under the Code provide for a refund of tax to any person who sells gasoline to another for exportation. Section 6421(c) provides ''If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4), or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081.'' Section 4221 provides, in pertinent part, ''Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter . . . on the sale by the manufacturer. . . of an article . . . for export, or for resale by the purchaser to a second purchaser for export. . . but only if such exportation or use is to occur before any other use . . .''

It is the IRS administrative position that the exemption from manufacturers excise tax by reason of exportation does not apply to the sale of motor fuel pumped into a fuel tank of a vehicle that is to be driven, or shipped, directly out of the United States.

A duty-free sales facility that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free sales facility on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory of the United States. The statutes covering duty-free facilities do not contain any limitation on what goods may qualify for duty-free treatment.

The issue of whether fuel sold from a duty-free facility and placed into the tank of an automobile that is then driven out of the country is exported fuel has been litigated in the courts. The cases involved the same operator of a duty-free facility seeking a refund of excise tax. The facility is near the Canadian border and is configured in such a way that anyone leaving the facility must depart the United States and enter into Canada. Both the Federal Circuit and the Sixth Circuit Court of Appeals are in accord with the IRS position and ruled that the operator of the duty-free facility did not have standing to pursue a claim for refund.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reaffirms the longstanding IRS position taken in Rev. Rul. 69–150 and restates present law by amending the Code definition of export to exclude the delivery of a taxable fuel into a fuel tank of a motor vehicle that is shipped or driven out of the United States. It also imposes a tax on the sale of taxable fuel at a duty-free sales enterprise unless there was a prior taxable removal, or entry of such fuel.

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 defined as (1) 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) transmix, and (3) diesel fuel blend stocks identified by the Secretary. As a defense to Federal and State excise tax liability, some taxpayers have contended that certain diesel fuel mixtures or additives do not meet the requirements of (1) above because they are not approved as additives or mixtures by the EPA. In addition, under present law, untaxed fuel additives, including certain contaminants, may displace taxed diesel fuel in a mixture.

The Code provides that any person who, in connection with a sale or lease (or offer for sale or lease) of an article, knowingly makes any false statement ascribing a particular part of the price of the article to a tax imposed by the United States, or intended to lead any person to believe that any part of the price consists of such a tax, is guilty of a misdemeanor. Another Code provision provides that any person who has in his custody or possession any article on which taxes are imposed by law, for the purpose of selling the article in fraud of the internal revenue laws or with design to avoid payment of the taxes thereon, is liable for ''a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded.''

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment adds a new assessable penalty. Any person other than a retailer who knowingly transfers for resale, sells for resale, or holds out for resale for use in a diesel-powered highway vehicle (or train) any liquid that does not meet applicable EPA regulations (as defined in section 45H(c)(3)) is subject to a penalty of $10,000 for each such transfer, sale or holding out for resale, in addition to the 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 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. 1571 of the Senate amendment, sec. 1361 of the conference agreement, and sec. 4611 of the Code)

PRESENT LAW

Between December 31, 1989, and January 1, 1995, a five-cent-per-barrel tax was 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 unobligated 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 several purposes, including the payment of costs for responding to and removing oil spills.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reinstates the Oil Spill Liability Trust Fund tax. The tax applies on April 1, 2006, or if later, the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than $2 billion.

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 $3 billion. The tax terminates after December 31, 2014.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modification. 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 $2.7 billion.

12. Leaking Underground Storage Tank Trust Fund (sec. 1562 of the Senate amendment, sec. 1362 of the conference agreement, secs. 4041, 4081(d), 4082, 9508, and new sec. 6430 of the Code)

PRESENT LAW

The Code imposes an excise tax, generally at a rate of 0.1 cents per gallon, on gasoline, diesel, kerosene, and special motor fuels (other than liquefied petroleum gas and liquefied natural gas). The taxes are deposited in the Leaking Underground Storage Tank (''LUST'') Trust Fund. The tax expires on October 1, 2005.

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose.

The Code requires the LUST Trust Fund to reimburse the General Fund for certain refund and credit claims related to the nontaxable use of fuel (only to the extent attributable to the LUST Trust fund financing rate).

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the LUST Trust Fund tax is extended at the current rate through September 30, 2011. Further, all fuel, including dyed fuel, is subject to the LUST tax and no refund or claim for payment in the case of otherwise nontaxable use (other than exports) is permitted for such fuel. Under the provision, the LUST Trust Fund is no longer required to reimburse the General Fund for claims and credits related to the nontaxable use of fuel.

Effective date.—The provision is generally effective for fuel entered, removed or sold after September 30, 2005. The extension of the trust fund tax is effective October 1, 2005.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

13. Clarification of tire excise tax (sec. 1573 of the Senate amendment, sec. 1364 of the conference agreement, and sec. 4072(e) of the Code)

PRESENT LAW

The Code imposes an excise tax on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 9.45 cents per 10 pounds of excess. Biasply tires and super single tires are taxed at a rate of 4.725 cents for each 10 pounds of rated load capacity exceeding 3,500 pounds. 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment subjects super single tires to a tax of 8 cents per 10 pounds of excess rated load capacity over 3,500 pounds. It redefines super single tire to be a single tire greater than 17.5 inches in cross section width designed to replace two tires in a dual fitment.

Effective date.—The provision is effective for sales after September 30, 2005.

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 ''designed to replace two tires in a dual fitment.'' To the extent there is any perceived ambiguity in the present law definition, the conferees 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 revise the Form 720, Quarterly Federal Excise Tax Return, to collect the information necessary to prepare the report. The report is also 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. 1363 of the conference agreement and sec. 1245 of the Code)

PRESENT LAW

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 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.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, if multiple section 197 intangibles are sold (or otherwise disposed of) in a single transaction or series of transactions, the seller must calculate recapture as if all of the section 197 intangibles were a single asset. Thus, any gain on the sale (or other disposition) of the intangibles is recaptured as ordinary income to the extent of ordinary depreciation deductions previously claimed on any of the section 197 intangibles.

The following example illustrates present law and the conference agreement:

Example.—In year 1, a taxpayer acquires two section 197 intangible assets for a total of $45. Asset A is assigned a cost basis of $15 and asset B is assigned a cost basis of $30. The allocation is irrelevant for amortization purposes, as the taxpayer will be entitled to a total of $3 per year ($45 divided by 15 years).

In year 6, the basis of A is $10 and the basis of B is $20. Taxpayer sells the assets for an aggregate sale price of $45, resulting in gain of $15. The character of this gain depends on the recapture amount, which depends in turn on the relative sales prices of the individual assets. Taxpayer has claimed $5 of amortization, and therefore has $5 of recapture potential, with respect to A. Taxpayer has claimed $10 of amortization, and therefore has $10 of recapture potential, with respect to B.

Under present law, if the sale proceeds are allocated $15 to A and $30 to B, the gain on assets A and B will be $5 and $10, respectively. These amounts match the recapture potential for each asset, so the full amount of the gain will be recaptured as ordinary income. However, if the sale proceeds instead are allocated $25 to A and $20 to B, the full $15 gain will be recognized with respect to A, and only $5 (full recapture potential with respect to A) will be recaptured as ordinary income. The remaining $10 of gain attributable to A will be treated as capital gain. No gain (and thus no recapture) will be recognized with respect to Asset B, and only $5 of the $15 recapture potential is recognized.

Under the conference agreement, the taxpayer calculates recapture as if assets A and B were a single asset. For purposes of the calculation, the proceeds are $45 and the gain is $15. Because a total of $15 of amortization has been claimed with respect to assets A and B, the full $15 gain is recaptured as ordinary income.

Effective date.—The conference agreement is effective for dispositions of property after the date of enactment.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the ''IRS Reform Act'') requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the ''Code'') and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have ''widespread applicability'' to individuals or small businesses.

HONORING OUR ARMED FORCES

STAFF SERGEANT JASON MONTEFERING

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Army SSG Jason Montefering, who died on July

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.

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 will 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 my sympathies to the friends and 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. HAGEL. Mr. President, I rise to express my sympathy over the loss of SGT Jason T. Palmerton of Auburn, NE, a Green Beret in the U.S. Army. Sergeant Palmerton was killed by small arms fire while on foot patrol on July 23 in Qal'eh-Yegaz, Afghanistan. He was 25 years old.

Sergeant Palmerton was born in Hamburg, IA, and grew up in Nebraska. He graduated from Auburn High School in 1998 and enlisted in the Army in 2002. Sergeant Palmerton was assigned to the 1st Battalion, 3rd Special Forces Group based in Fort Bragg, NC, and had been in Afghanistan for 6 weeks. He had learned Arabic and was working as a communications specialist. Sergeant Palmerton will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Sergeant Palmerton are currently serving in Afghanistan.

Sergeant Palmerton is survived by his mother Denise Brown, of Auburn; father Steve Palmerton of Norman, OK; sisters, Elizabeth Schlange of Auburn, Amanda Palmerton of Omaha and Chelsea Palmerton of Norman; grandparents, Herman and Alice Moenning of Lincoln, and Thomas Palmerton of Brownville; and fiance Shelley Austin of North Carolina. Our thoughts and prayers are with them at this difficult time. America is proud of Sergeant Palmerton's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring SGT Jason T. Palmerton.

STRIKING THE PRESIDENTIAL WAIVER AUTHORITY IN AMENDMENT NO. 1556

Mr. MCCAIN. Mr. President, on Monday I offered an amendment that would prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the U.S. Government. I was pleased that Senators WARNER, GRAHAM, and COLLINS joined as original cosponsors, and Senators CHAFEE and ALEXANDER have also joined as cosponsors.

After I offered the amendment, I agreed to modify it at the manager's request to include a Presidential waiver—section (b) of the pending amendment. It is now clear, however, that this would be inconsistent with the overall intent of my amendment, which is to ensure that there is full compliance with our treaty obligations, including with the prohibition against cruel, inhuman, and degrading treatment included in the Convention Against Torture, which was signed by President Reagan and ratified by the Senate.

For this reason, I have filed a second-degree amendment to amendment No. 1556 that would strike the waiver. When the Senate resumes consideration of the Defense authorization bill, I will either modify the pending amendment, seek action on the second-degree amendment, or simply file a new amendment without the waiver. In short, I will offer for consideration—and seek passage of—a statutory prohibition against cruel, inhuman, or degrading treatment or punishment, without a Presidential waiver.

SETTING THE RECORD STRAIGHT ON PAWS

Mr. SANTORUM. Mr. President, on May 26, 2005, I introduced with my colleague Senator DURBIN the Pet Animal Welfare Statute of 2005, or PAWS. PAWS amends the Animal Welfare Act to strengthen the Secretary of Agriculture's authority to deal with the problems of substandard animal dealers.

I want to make clear to our colleagues and the public that we believe the vast majority of animal dealers are conscientious persons who make every effort to treat their animals humanely and to comply with the law. But, unfortunately, there are some animal dealers who do not care properly for their animals and who seek to profit at the expense of the animals and the public. They exploit the weaknesses and loopholes in the current law to evade or ignore basic standards for the care and condition of animals. These substandard dealers give the entire pet industry a black eye, all the while preying upon the public. It is these unscrupulous animal dealers at which PAWS is targeted.

PAWS strengthens the Secretary of Agriculture's authority to deal with substandard animal dealers by making four important improvements to 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 authority to temporarily suspend dealers' licenses for up to 60 days if a violation is placing the health of an animal in imminent danger. Finally, PAWS will strengthen the authority of 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 retail sellers, 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, where 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 persons 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 bred or raised on their own premises, or fewer than 25 dogs and cats per year bred or raised on their own premises, which ever is greater, would be exempt. For example, if an irish setter breeder has 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 coownerships, 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 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 they often charge 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 in commerce, 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 will no longer be able to raise animals in a residential environment. There is nothing in PAWS, or in the current Animal Welfare Act, that precludes persons from breeding and raising animals in a residential setting, provided the animals are properly housed and cared for. In implementing PAWS, the Secretary of Agriculture will have to assure that the animal care regulations take into account breeders and dealers who conduct their operations in a residential setting.

I want to make clear that PAWS is a very different piece of legislation than the bills that Senator DURBIN and I have introduced in previous Congresses. PAWS does not require or justify creating any new animal care standards, like our previous legislation did. It focuses only on bringing under regulation high volume commercial dealers currently evading regulation and on strengthening the Secretary of Agriculture's ability to identify and bring into compliance high volume dealers who are not in compliance with existing law or, as a last resort, shut them down.

Senator DURBIN and I in the Senate, along with our colleagues Representatives GERLACH 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 the 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 often been 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 bill's language to better reflect our intentions 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 fancy 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. 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. I urge my colleagues and all those in the animal welfare community to join us in this effort.

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 its tireless work on behalf of 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 modernized several 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 is 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.

Additionally, VA's Medical and Prosthetics Research Program has led to substantial advances in prosthetics, traumatic injury, post traumatic stress disorder, as well as many other areas that have helped our veterans over the years. This research has also led to discoveries in medicine that effect both veterans and the general population, such as cancer, aging, mental illness, and heart disease. In fact, past VA research projects have resulted in the first successful kidney transplant performed in the U.S., as well as the development of the cardiac pacemaker, a vaccine for hepatitis, and the CAT and MRI scans.

Another function of VA is overseeing our National Cemetery System. VA has helped create and manage a network of Federal and State cemeteries that provides deceased veterans with a respectful and peaceful final resting place.

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 for our veterans. And 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 a deep and passionate commitment to providing quality health care and benefits for our veterans.

Our Nation's veterans and servicemembers 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 served as 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 a diagnosis of 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. VITTER. Mr. President, I rise today to introduce a bill that would withhold 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 international 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 speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce 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 the floor to highlight a separate hate crime that has occurred in our country.

Last year, an African-American transgender woman was brutally beaten, raped, and strangled in a San Francisco hotel. The murder is under investigation and anti-transgender bias has been looked into as a motive.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CONGRESSMAN JOHN LEWIS AND THE VOTING RIGHTS ACT

Mr. LEAHY. Mr. President, last month, the debate over the nomination of Judge William Pryor to the Fourth Circuit Court of Appeals included a discussion of Judge Pryor's call to repeal section 5 of the Voting Rights Act—the centerpiece of that landmark statute—because, as he asserted in congressional testimony, it ''is an affront to federalism and an expensive burden that has far outlived its usefulness.'' His testimony demonstrated that Judge Pryor is more concerned with preventing an ''affront'' to the States' dignity than with guaranteeing all citizens the right to cast an equal vote.

In the Republican defense of Judge Pryor, it was suggested that Congressman JOHN LEWIS, a stalwart leader of the civil rights movement, 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 continued, 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 not 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 our system of federalism. 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—no 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'' in March 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,
Ranking Member, 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 Senator Chambliss'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 a continued, 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 or unintentionally 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 their 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 and to ensure that people are 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 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 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 and strengthening the provisions of the Voting Rights Act.

Sincerely,

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 Space Shuttle *Discovery* 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 attract 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 overhead right now come from the Air Force Academy.

LTC Eileen Collins, a former professor in the Air Force Academy's Mathematics Department, is currently soaring 122 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. We in Colorado are 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 dreams 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 represent the best of its students 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 360 civilians who took the oath on July 12, 1955, to become the first 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 thoughts 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.

And along with millions of Americans, I also wish our astronauts a safe voyage and a speedy return.

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 their annual family reunion.

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 service 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, their calves produce more enzymes'' to prevent 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.

''It's 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 St. Albans Co-operative Creamery.

Howrigans have graduated from Harvard; become nurses, doctors, teachers and lawyers; left Fairfield or Vermont for good. But an extraordinary number of the men, and some of the women, have chosen a farm life like their parents'.

They constitute a one-clan countertrend 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 see that in their faces. 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 teach 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 see why what 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 made sure 10 children were fed, 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 Howigran family, farming meant 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, farm 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 the 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 week.

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—five in all—to pass on to his sons.

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 family 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' grandson, 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 bugs off 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 of Burlington, 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.

Instead, Brendan spent his youth tagging 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 his herd. This winter, he borrowed money on his own to purchase a 625-acre farm in Sheldon. (He'd built up equity, but the Howrigan pedigree might have helped him get the loan, he said.)

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, 54, 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 his fields last week, 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 houses.

There was the slightest hint of disappointment or disapproval in his tone. Since he bought his first farm in 1968, he has acquired more than 1,000 acres, a rolling green landscape of maple woods and productive fields with million-dollar views.

''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. The gruffness melts into stories 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 sons 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 nicer 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. He is a man with a kind heart, diverse interests and great abilities. Wesley embodies the best of Delaware.

''Doc,'' as he was fondly known, was born on August 15, 1942 in Wilmington, DE. He spent much of his youth with his grandfather, the farm manager on E.E. du Pont's Greenville, DE, estate, ''Dogwood.'' He loved the country, the farm work, and the animals. When the local veterinarian came to tend the livestock, Doc knew what he wanted to be.

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 racetracks offered him a temporary night job overseeing racehorses. Several weeks later, the track vet had a stroke, 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 public enemy No. 1 being 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 Department of Agriculture's Employee of the Year award, the University of Delaware's Worrilow 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-athons, 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 State Fair Board 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 describes her husband over 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 the friendship that we share. Through his tireless efforts, Doc has made a profound difference in the lives of thousands 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 those in need too often goes unnoticed—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 tertiary 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 that system have my deep respect 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. ISAKSON. 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 Bernie 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 Project Homefront, 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, the second oldest son of Sam and Helen Walton of Bentonville, AR. He attended high school in Bentonville and began his undergraduate studies at the College of Wooster in Wooster, OH.

As a young college student during the Vietnam era, John enlisted in the Army and volunteered for combat as a medic with the Green Berets. During his time in Vietnam, he was often in firefights with the enemy and performed heroically as a part of his special operations unit. He was awarded the Silver Star for saving the lives of several members of his unit while under enemy fire.

After returning from Vietnam, John pursued a variety of interests, including working as a crop duster in the 1970s and building boats in the 1980s. He had a passion for all things mechanical and was an avid motorcyclist and pilot.

More recently, John took a great interest in education. He took $67 million of Walton Foundation money and founded the Children's Scholarship Fund. Scholarships from the fund have benefitted 67,000 children. He, along with his family, also made the largest contribution to a public college when they gave a $300 million gift to the University of Arkansas.

Our condolences and prayers go out to John's wife Christy of Jackson Hole, WY; to his son, Luke, and to his mother Helen; as well as to his siblings Rob, 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 by funding a better 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 home State of Indiana, Mr. 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. Mr. Neale remains not only 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 industry management consulting firm, for 17 years. Additionally, he held management positions at Wells Fargo Bank and Kaiser Industries.

Mr. Neale has displayed tremendous leadership in multiple capacities. He has served as chairman of both the American Gas Association and the North American Electric Reliability Council. He was appointed to the U.S. Department of Energy's National Petroleum Council and also the Department's Electricity Advisory Board. 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 & Gas 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. I am pleased to have this 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 Arkansan. Jackson ''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 and fabled work ethic led Stephens, Inc. to the forefront of Arkansas business. The financial clout that the Stephens brothers were able to amass allowed Jack to play an essential role in the development of some of Arkansas' 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 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 economic well-being but also in many nonprofit causes for the benefit of the people of Arkansas. He helped build the distinguished Jackson T. Stephens Spine and Neurosciences Institute at the University of Arkansas for Medical Sciences. Jack's support of the arts, health and education also made a notable difference in lives of so many Arkansans.

Perhaps one of the best known causes that Jack promoted was related to one of his lifetime passions: golf. In 1991 Jack was chosen to be chairman of 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 fellowman.●

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's highway system.

The highway was first conceived in 1912, when most roads were little more than deeply rutted wagon trails. But with the rise of the automobile, the need for a transcontinental road had become increasingly apparent and ambitious plans were laid for this enormous undertaking.

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 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 communication 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 Walter Edward Harms of Quincy, IL; and his brothers, Don Harms of 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 American'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 Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 22. An act to reform the postal laws of the United States.

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.

H.R. 2894. 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. 3200. 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. Molloy 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 to reduce the incidence of events that adversely effect patient safety.

S. 1395. 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 Sand Creek Massacre 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 the 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 effect patient safety.

MEASURES REFERRED

The following bills were read the first and the second times 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. 2894. 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 Servicemembers' Group Life Insurance program, and for other purposes; 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. Molloy 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. 1797. 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 hydropower 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:

H.R. 22. An act to reform the postal laws of the United States.

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–3221. 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–3225. 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 ''Pymetrozine; Pesticide Tolerance'' (FRL No. 7724–5) 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 ''Spiromesifen; Pesticide Tolerance; Technical Correction'' (FRL No. 7727–7) 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 ''Approval and Promulgation of Implementation Plans; Indiana'' (FRL No. 7930–9) received July 25, 2005; to the Committee on Environment and Public Works.

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 Ethics in Government Act of 1978 to reauthorize 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, 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'' (RIN3235–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'' (RIN0938–AN22) 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 and Federal Credit Unions'' (Notice 2005–58) 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'' (RIN1625–AA87) 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'' (RIN1625–AA00) 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 Zone; Cleveland Harbor, Cleveland, Ohio, Change of Location'' (RIN1625–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'' (RIN1625–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–3242. 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 ''Safety Zones (including 3 regulations)'' ((RIN1625–AA00)(RIN1625–AA87)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3243. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Locomotive Event Recorders'' (RIN2130–AB34) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3244. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Routes; AK'' ((RIN2120–AA66)(2005–0150)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3245. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Routes; AK'' ((RIN2120–AA66)(2005–0151)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3246. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Routes; AK'' ((RIN2120–AA66)(2005–0152)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3247. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Bar Harbor, ME'' ((RIN2120–AA66)(2005–0148)) 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, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Valentine, NE'' ((RIN2120–AA66)(2005–0163)) 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, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Surface Area Airspace, South Lake Tahoe CA'' ((RIN2120–AA66)(2005–0137)) 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, transmitting, pursuant to law, the report of a rule entitled ''Revision of Federal Airways V–2, V–257, and, V–343; MT'' ((RIN2120–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, transmitting, pursuant to law, the report of a rule entitled ''Revision of Jet Route 94'' ((RIN2120–AA66)(2005–0154)) 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, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (67)'' ((RIN2120–AA65)(2005–0019)) 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, transmitting, pursuant to law, the report of a rule entitled ''Modification and Revocation of Federal Airways; AK'' ((RIN2120–AA66)(2005–0161)) 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, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Parsons, KS'' ((RIN2120–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, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Columbus, NE'' ((RIN2120–AA66)(2005–0141)) 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, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Muskegon, MI'' ((RIN2120–AA66)(2005–0139)) 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, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; McCook, NE'' ((RIN2120–AA66)(2005–0140)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3258. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Mountain Grove, MO'' ((RIN2120–AA66)(2005–0159)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3259. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Neosho, MO'' ((RIN2120–AA66)(2005–0156)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3260. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Macon, MO'' ((RIN2120–AA66)(2005–0158)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3261. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Emmonak, AK'' ((RIN2120–AA66)(2005–0145)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3262. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Shishmaref, AK'' ((RIN2120–AA66)(2005–0147)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3263. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Kalskag, AK'' ((RIN2120–AA66)(2005–0155)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; St. Michael, AK'' ((RIN2120–AA66)(2005–0157)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Mifflintown, PA; CORRECTION'' ((RIN2120–AA66)(2005–0136)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Bob Baker Memorial Airport, Kiana, AK'' ((RIN2120–AA66)(2005–0142)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Chalkyitsik, AK'' ((RIN2120–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. 1418. 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 times by unanimous consent, 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. 1504. 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 Special Exposure Cohort under the energy employees occupational illness compensation program; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (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 pornography-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. BOND, Mr. REED, 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. DOMENICI, Mr. COLEMAN, and Mr. PRYOR):

S. 1517. A bill to permit Women's Business Centers to re-compete for sustainability grants; considered and passed.

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 in 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, Mrs. BOXER, Ms. COLLINS, Mrs. CLINTON, Mr. CHAFEE, Mr. LAUTENBERG, Mr. STEVENS, Mr. DURBIN, Mr. LIEBERMAN, Mr. KERRY, Mrs. MURRAY, Mr. SALAZAR, Ms. STABENOW, Ms. MIKULSKI, Mr. JEFFORDS, Mr. INOUYE, and Ms. CANTWELL):

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, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. WYDEN, Mrs. MURRAY, Mrs. FEINSTEIN, and Mrs. 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 displayed by those 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):

S. Res. 217. A resolution designating August 13, 2005, as ''National Marina Day''; considered and agreed to.

By Mr. DURBIN (for himself and Mr. CORNYN):

S. Con. Res. 48. 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. 705

At the request of Mr. SARBANES, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 705, 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. 781

At the request of Mr. CRAPO, 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. DOMENICI, 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.

S. 935

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.

S. 963

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.

S. 1002

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.

S. 1013

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.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Idaho (Mr. CRAPO) 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.

S. 1076

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.

S. 1081

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 for physicians' services for 2006 and 2007.

S. 1112

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.

S. 1129

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.

S. 1139

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.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Michigan (Ms. STABENOW) 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.

S. 1197

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.

S. 1249

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.

S. 1260

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.

S. 1265

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.

S. 1304

At the request of Mr. HARKIN, 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.

S. 1325

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.

S. 1356

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.

S. 1417

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.

S. 1429

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.

S. 1490

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.

S. 1491

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.

S. 1492

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.

S. 1493

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. 1494

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1494, 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.J. 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''.

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. Res. 158, supra.

S. RES. 204

At the request of Mr. DURBIN, 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. 1337

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. 1337 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. 1556

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. 1556 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.

STATEMENTS 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 1—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 regarding telemedicine.
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.
Subtitle C—Patient Safety and Quality Improvement
Sec. 141. Short title.
Sec. 142. Findings and purposes.
Sec. 143. Amendments to Public Health Service Act.
Sec. 144. Studies and reports.
Subtitle D—Fraud and Abuse
Sec. 151. National expansion of the medicare-medicaid data match pilot program.
Subtitle E—Miscellaneous Provisions
Sec. 161. Sense of the Senate on establishing a mandated benefits commission.
Sec. 162. 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.
Subtitle C—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 entitled to 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 eligible 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.
Subtitle E—Other Provisions
Sec. 241. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.
Sec. 242. Microentrepreneurs.
Sec. 243. Study on access to affordable health insurance for full-time college and university students.
Sec. 244. Extension of funding for operation of State high risk health insurance pools.
Sec. 245. Sense of the senate on affordable health coverage for small employers.
Subtitle F—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 medicaid or child health assistance under SCHIP.
TITLE 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—Qualified Integrated Health Care systems
Sec. 321. Grants to qualified integrated health care systems.
Subtitle C—Miscellaneous Provisions
Sec. 331. Community health center collaborative access expansion.
Sec. 332. Improvements to section 340B program.
Sec. 333. Forbearance for student loans for physicians providing services in free clinics.
Sec. 334. Amendments to the Public Health Service Act relating to liability.
Sec. 335. Sense of the Senate concerning health disparities.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Health care costs are growing rapidly, putting health insurance and needed care out of reach for too many Americans.

(2) Rapidly growing health care costs pose a threat to the United States economy, as they make American businesses less competitive and make it more difficult to create new jobs.

(3) Growing health care costs are compromising the stability of health care safety net and entitlement programs.

(4) There are a series of steps Congress can and should take to slow the growth of health care costs, expand access to health coverage, and improve access to quality health care for millions of Americans.

TITLE I—MAKING HEALTH CARE MORE AFFORDABLE

Subtitle A—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 INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this subtitle to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 103. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 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, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(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 from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 104. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered 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 NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic 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 $250,000, 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 rendered against 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 particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No 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—

(A) 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; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 106. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(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 or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is 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 against any person 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 that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) NO PENALTIES FOR PROVIDERS IN COMPLIANCE WITH FDA STANDARDS.—A health care provider who prescribes a medical product approved or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product.

SEC. 108. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 109. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(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 medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term ''compensatory damages'' includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic 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 medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term ''health care organization'' means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans, and the terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 110. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this subtitle does not affect the application of the rule of law to such an action; and

(B) 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 law (as determined under this subtitle) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this subtitle shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

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 supersede 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 applicability or 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 any provision 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 construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this subtitle) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this subtitle, notwithstanding section 104(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, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, 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 such term in section 1171(4) 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 2791(a)(1)); 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 804 of the Federal Food, Drug, and Cosmetic 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) Purpose.—It shall be the purpose of the Office to coordinate with relevant Federal agencies and oversee programs and activities to develop 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 that 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) provide support to the public-private American Health Information Collaborative established under section 2903;

''(2) 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;

''(3) facilitate the adoption of a nationwide, interoperable system for the electronic exchange of health information;

''(4) ensure the adoption and implementation of standards for the electronic exchange of health information to reduce cost and improve health care quality;

''(5) ensure that health information technology policy and programs of the Department are coordinated with those of relevant executive branch agencies (including Federal commissions) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability;

''(6) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including 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;

''(7) advise the President regarding specific Federal health information technology programs; and

''(8) submit the reports described under section 2903(i) (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 efforts were carried out 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 privacy;

''(B) health information security;

''(C) health care quality and patient safety, including those individuals with experience in utilizing 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 year 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;

''(4) the ongoing harmonization of industry-wide health information technology standards;

''(5) 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) ONGOING 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.

''(4) LIMITATION.—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, as 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, or exchange 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), all Federal agencies collecting health data for the purposes of surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary shall comply with 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 adopted 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 adopt the 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 effect the scope or substance of—

''(1) section 264 of the Health Insurance Portability and Accountability Act of 1996;

''(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) contains recommendations to achieve full implementation of such a nationwide system; and

''(4) contains a plan and progress toward the establishment of an entity 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 14(a)(2) shall be 5 years.

''(l) 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, based upon the recommendations of the Collaborative, shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintained such compliance in technical conformance with such standards.

''(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1) using the criteria developed by the Secretary under this section.

''(c) DELEGATION AUTHORITY.—The Secretary, through consultation with the Collaborative, may delegate the development of the criteria under subsections (a) and (b) to a private entity.

''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;

''(B) between the States and the Federal Government; and

''(C) among private entities; 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 such States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilizing 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 provide assurance 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 efforts 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 the purpose of carrying out subsection (a), 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—

''(A) among the States; and

''(B) between the States and the Federal Government.

''(b) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary shall publish a report that—

''(1) describes the results of the study carried out under subsection (a); and

''(2) makes recommendations to States regarding the harmonization of State laws based on the results of such study.

''SEC. 2908. AUTHORIZATION OF APPROPRIATIONS.

''(a) 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.

''(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available through fiscal year 2010.''.

SEC. 122. HIPAA REPORT.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, 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 the amendments made by this subtitle with the standards adopted under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) PLAN; REPORT.—

(1) PLAN.—Not later than 3 years after the date of enactment of this Act, 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 of the integration described under paragraph (1).

SEC. 123. 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 TELEMEDICINE.

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 measures pursuant to those adopted in section 2909 of the Public Health Service Act (as added by section 121) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 121).

SEC. 126. ESTABLISHMENT OF QUALITY MEASUREMENT SYSTEMS FOR MEDICARE VALUE-BASED PURCHASING PROGRAMS.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 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 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) REQUIREMENTS.—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, outcomes, beneficiary experience, efficiency, and equity are included;

''(iii) measures of overuse and underuse of health care items and services are included;

''(iv)(I) 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, such as 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; and

''(II) additional measures of health information technology infrastructure are included in subsequent years;

''(v) 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

''(vi) measures that assess the quality of care furnished to frail individuals over the age of 75 and to individuals with multiple complex chronic conditions are included.

''(C) REQUIREMENT FOR COLLECTION OF DATA ON A MEASURE FOR 1 YEAR PRIOR TO USE UNDER THE SYSTEMS.—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 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 ESRD PROVIDERS AND FACILITIES.—In the case of the system applicable to providers of services and renal dialysis facilities under section 1860E–5, the Secretary may vary the measures selected under subparagraph (A) by provider or facility depending on the type of, the size of, and the scope of services provided by, the provider or facility.

''(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 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)(I), 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; and

''(ii) measures of risk adjusted outcomes shall be weighted more heavily than measures of process; and

''(3) RISK ADJUSTMENT.—The Secretary shall establish procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics. To the extent feasible, such procedures may be based on existing models for controlling for such differences.

''(4) MAINTENANCE.—

''(A) IN GENERAL.—The Secretary shall, as determined appropriate, but not more often than once each 12-month period, update each system, including through—

''(i) the addition of more 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).

''(5) 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 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—

''(1) take into account the quality measures developed by nationally recognized quality measurement organizations, researchers, health care provider organizations, and other appropriate groups;

''(2) consult with, and take into account the recommendations of, the entity that the Secretary has an arrangement with under subsection (e);

''(3) consult with provider-based groups and clinical specialty societies;

''(4) 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

''(5) 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;

''(B) the results of—

''(i) the demonstrations 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 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

''(d) REQUIREMENTS FOR IMPLEMENTING 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 measures; 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)(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 the frail elderly and individuals with multiple complex chronic conditions; or

''(II) groups representing such health plans and providers;

''(ii) groups representing individuals receiving benefits under this title;

''(iii) purchasers and employers or groups representing purchasers or employers;

''(iv) organizations that focus on quality improvement as well as the measurement and reporting of quality measures;

''(v) State government health programs;

''(vi) persons skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

''(vii) persons or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(C) The membership of the entity is representative of individuals with experience with—

''(i) urban health care issues;

''(ii) safety net health care issues; and

''(iii) rural and frontier health care issues.

''(D) The entity does not charge a fee for membership for participation in the work of the entity related to the arrangement with the Secretary under paragraph (1). If the entity does require a fee for membership for participation in other functions of the entity, there shall be no linkage between such fee and participation in the work of the entity related to such arrangement with the Secretary.

''(E) The entity—

''(i) permits any member described in subparagraph (B) to vote on matters of the entity related to the arrangement with the Secretary under paragraph (1); and

''(ii) ensures that such members have an equal vote on such matters.

''(F) With respect to matters related to the arrangement with the Secretary under paragraph (1), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment.

''(G) The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).''.

(b) CONFORMING REFERENCES TO PREVIOUS PART E.—Any reference in law (in effect before the date of the enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

SEC. 127. EXCEPTION TO FEDERAL ANTI-KICKBACK AND PHYSICIAN SELF REFERRAL LAWS FOR THE PROVISION OF PERMITTED SUPPORT.

(a) ANTI-KICKBACK.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I);

(D) in subparagraph (I), as so redesignated—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new:

''(J) during the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in paragraph (4)).''; and

(2) by adding at the end the following new paragraph:

''(4) PERMITTED SUPPORT.—

''(A) DEFINITION OF PERMITTED SUPPORT.—Subject to subparagraph (B), in this section, the term 'permitted support' means the provision of any equipment, item, information, right, license, intellectual property, software, training, or service used for developing, implementing, operating, or facilitating the use of systems designed to improve the quality of health care and to promote the electronic exchange of health information.

''(B) EXCEPTION.—The term 'permitted support' shall not include the provision of—

''(i) any support that is determined in a manner that is related to the volume or value of any referrals or other business generated between the parties for which payment may be made in whole or in part under a Federal health care program;

''(ii) any support that has more than incidental utility or value to the recipient beyond the exchange of health care information; or

''(iii) any health information technology system, product, or service that is not capable of exchanging health care information in compliance with data standards consistent with interoperability.

''(C) DETERMINATION.—In establishing regulations with respect to the requirement under subparagraph (B)(iii), the Secretary shall take in account—

''(I) whether the health information technology system, product, or service is widely accepted within the industry and whether there is sufficient industry experience to ensure successful implementation of the system, product, or service; and

''(II) whether the health information technology system, product, or service improves quality of care, enhances patient safety, or provides greater administrative efficiencies.''.

(b) PHYSICIAN SELF-REFERRAL.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended by adding at the end the following new paragraph:

''(9) PERMITTED SUPPORT.—During the 5-year period beginning on the date the Secretary issues the interim final rule under section 801(c)(1) of the Medicare Value Purchasing Act of 2005, the provision, with or without charge, of any permitted support (as defined in section 1128B(b)(4)).''.

(c) REGULATIONS.—In order to carry out the amendments made by this section—

(1) the Secretary shall issue an interim final rule with comment period by not later than the date that is 180 days after the date of enactment of this Act;

(2) the Secretary shall issue a final rule by not later than the date that is 180 days after the date that the interim final rule under paragraph (1) is issued.

CHAPTER 2—VALUE BASED PURCHASING

SEC. 131. VALUE BASED PURCHASING PROGRAMS; SENSE OF THE SENATE.

(a) MEDICARE VALUE BASED PURCHASING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) a value based purchasing pilot program based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126). Such pilot program should be based on experience gained through previous demonstration projects conducted by the Secretary, including demonstration projects conducted under sections 1866A and 1866C of the Social Security Act (42 U.S.C. 1395cc–1; 1395cc–3), section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), and other relevant work conducted by private entities.

(2) EXPANSION.—Not later than 2 years after conducting the pilot program under paragraph (1), the Secretary shall transition and implement such program on a national basis.

(3) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(4) FUNDING.—The Secretary shall ensure that the total amount of expenditures under this Act in a year does not exceed the total amount of expenditures that would have been expended in such year under this Act if this subsection had not been enacted.

(b) MEDICAID VALUE BASED PURCHASING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall authorize waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) for States to establish value based purchasing programs for State medicaid programs established under title XIX of such Act (42 U.S.C. 1396 et seq.). Such programs shall be based on the reporting of quality measures pursuant to those adopted in section 1860E-1 of the Social Security Act (as added by section 126).

(2) INFORMATION TECHNOLOGY.—Providers reporting quality measurement data electronically under this section shall report such data pursuant to the standards adopted under title XXIX of the Public Health Service Act (as added by section 121).

(3) WAIVER.—In authorizing such waivers, the Secretary shall waive any provisions of title XI or XIX of the Social Security Act that would otherwise prevent a State from establishing a value based purchasing program in accordance with paragraph (1).

Subtitle C—Patient Safety and Quality Improvement

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Patient Safety and Quality Improvement Act of 2005''.

SEC. 142. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1999, the Institute of Medicine released a report entitled To Err is Human that described medical errors as the eighth leading cause of death in the United States, with as many as 98,000 people dying as a result of medical errors each year.

(2) To address these deaths and injuries due to medical errors, the health care system must identify and learn from such errors so that systems of care can be improved.

(3) In their report, the Institute of Medicine called on Congress to provide legal protections with respect to information reported for the purposes of quality improvement and patient safety.

(4) The Health, Education, Labor, and Pensions Committee of the Senate held 4 hearings in the 106th Congress and 1 hearing in the 107th Congress on patient safety where experts in the field supported the recommendation of the Institute of Medicine for congressional action.

(5) Myriad public and private patient safety initiatives have begun. The Quality Interagency Coordination Taskforce has recommended steps to improve patient safety that may be taken by each Federal agency involved in health care and activities relating to these steps are ongoing.

(6) 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.

(b) PURPOSES.—It is the purpose of this subtitle to—

(1) 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

(2) ensure accountability by raising standards and expectations for continuous quality improvements in patient safety.

SEC. 143. AMENDMENTS 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 912(c), by inserting '', in accordance with part C,'' after ''The Director shall'';

(2) by redesignating part C as part D;

(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

(4) in 934(d) (as so redesignated), by striking the second sentence and inserting the following: ''Penalties provided for under this section shall be imposed and collected by the Secretary using the administrative and procedural processes used to impose and collect civil money penalties under section 1128A of the Social Security Act (other than subsections (a) and (b), the second sentence of subsection (f), and subsections (i), (m), and (n)), unless the Secretary determines that a modification of procedures would be more suitable or reasonable to carry out this subsection and provides for such modification by regulation.'';

(5) in section 938(1) (as so redesignated), by striking ''921'' and inserting ''931''; and

(6) by inserting after part B 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, with respect to information, that the information is presented in a form and manner that prevents the identification of a provider, a patient, or a reporter of patient safety data.

''(B) IDENTIFIABILITY OF PATIENT.—For purposes of subparagraph (A), the term 'presented in a form and manner that prevents the identification of a patient' means, with respect to information that has been subject to rules promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), that the information has been de-identified so that it is no longer individually identifiable health information as defined in such rules.

''(2) PATIENT SAFETY DATA.—

''(A) IN GENERAL.—The term 'patient safety data' 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; or

''(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 case analyses), or written or oral statements referred to in subclause (I) or (IV) of 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 discharge information or any other patient or provider record) that is collected or developed separately from and that exists separately from patient safety data. 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 part, 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 governmental agency for 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 924(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 improving patient safety, such as recommendations, protocols, or information regarding best practices.

''(D) The utilization of patient safety data for the purposes of encouraging a culture of safety and of providing direct feedback and assistance to providers to effectively minimize patient risk.

''(E) The maintenance of procedures to preserve confidentiality with respect to patient safety data.

''(F) The provision of appropriate security measures with respect to patient safety data.

''(G) The utilization of qualified staff.

''(5) PERSON.—The term 'person' includes Federal, State, and local government agencies.

''(6) PROVIDER.—The term 'provider' means—

''(A) a person licensed or otherwise authorized under State law to provide health care services, including—

''(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

''(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified

social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

''(B) any other person specified in regulations promulgated by the Secretary.

''SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

''(a) PRIVILEGE.—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), shall not be—

''(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena;

''(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding;

''(3) disclosed pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

''(4) admitted as evidence or otherwise disclosed in any Federal, State, or local civil, criminal, or administrative proceeding; or

''(5) utilized in a disciplinary proceeding against a provider.

''(b) CONFIDENTIALITY.—Notwithstanding any other provision of Federal, State, or local law, and subject to the provisions of subsections (c) and (d), patient safety data shall be confidential and shall not be disclosed.

''(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 after a court makes an in camera determination that such patient safety data contains evidence of a wanton and criminal act to directly harm the patient.

''(2) Voluntary disclosure of non-identifiable patient safety data by a provider or a patient safety organization.

''(d) PROTECTED DISCLOSURE AND USE OF INFORMATION.—Nothing in this section shall be construed to prohibit one or more of the following uses or disclosures:

''(1) Disclosure of patient safety data by a person that is 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 activities.

''(2) 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.

''(3) Disclosure of patient safety data by a provider to an accrediting body that accredits that provider.

''(4) Voluntary disclosure of patient safety data by a patient safety organization to the Secretary for public health surveillance if the consent of each 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 such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

''(5) Voluntary disclosure of patient safety data by a patient safety organization to State of local government agencies for public health surveillance if the consent of each 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 such consent with respect to the disclosure of patient safety date that relates to such nonconsenting providers. Consent for the future release of patient safety data for such purposes may be requested by the patient safety organization at the time the data is submitted.

''(e) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), patient safety data that is used or disclosed shall continue to be privileged and confidential as provided for in subsections (a) and (b), and the provisions of such subsections shall apply to such data in the possession or control of—

''(A) a provider or patient safety organization that possessed such data before the use or disclosure; or

''(B) a person to whom such data was disclosed.

''(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

''(A) if patient safety data is used or disclosed as provided for in subsection (c)(1), and such use or disclosure is in open court, the confidentiality protections provided for in subsection (b) shall no longer apply to such data; and

''(B) if patient safety data is used or disclosed as provided for in subsection (c)(2), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such data.

''(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to data other than the specific data used or disclosed as provided for in subsection (c).

''(f) LIMITATION ON ACTIONS.—

''(1) PATIENT SAFETY ORGANIZATIONS.—Except to enforce disclosures pursuant to subsection (c)(1), no action may be brought or process served against a patient safety organization to compel disclosure of information collected or developed under this part whether or not such information is patient safety data unless such information is specifically identified, is not patient safety data, and cannot otherwise be obtained.

''(2) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety data in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established 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—

''(A) to the provider with the intention of having the information reported to a patient safety organization; or

''(B) directly to a patient safety organization.

''(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an 'adverse employment action' includes—

''(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

''(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

''(h) ENFORCEMENT.—

''(1) PROHIBITION.—Except as provided in subsections (c) and (d) and as otherwise provided for in this section, it shall be unlawful for any person to negligently or intentionally disclose any patient safety data, and any such person shall, upon adjudication, be assessed in accordance with section 934(d).

''(2) RELATION TO HIPAA.—The penalty provided for under paragraph (1) shall not apply 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.

''(3) EQUITABLE RELIEF.—

''(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (g) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

''(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action as described by this paragraph, and that consent has remained in effect.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

''(1) limit other privileges that are available under Federal, State, or local laws that provide greater confidentiality protections or privileges than the privilege and confidentiality protections provided for in this section;

''(2) limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

''(3) alter or affect the implementation of any provision of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), section 1176 of the Social Security Act (42 U.S.C. 1320d–5), or any regulation promulgated under such sections;

''(4) limit the authority of any provider, patient safety organization, or other person to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with subsection (c) or (d); and

''(5) 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. 923. 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. The network of databases shall have the capacity to accept, aggregate, and analyze nonidentifiable patient safety data voluntarily reported by patient safety organizations, providers, or other persons.

''(b) NETWORK OF DATABASE STANDARDS.—The Secretary may determine common formats for the reporting to 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 standardized computer interface for the processing of such data. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of 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 intends to perform the patient safety organization activities.

''(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—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 subparagraphs (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.—

''(i) 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 a renewal certification to the Secretary that the entity performs the patient safety organization activities described in section 921(4).

''(ii) TERM OF RENEWAL.—A renewal certification under clause (i) shall expire on the date that is 3 years after the date on which 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 (a)(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 shall notify the organization that such certification is not accepted and the reasons therefor.

''(c) LISTING.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall compile and maintain a current listing of patient safety organizations with respect to which the Secretary has accepted a certification pursuant to subsection (b).

''(2) REMOVAL FROM LISTING.—The Secretary shall remove from the listing under paragraph (1)—

''(A) an entity with respect to which the Secretary has accepted an initial certification pursuant to subsection (a)(2)(A) and which does not submit a supplemental certification pursuant to subsection (a)(2)(B) that is accepted by the Secretary;

''(B) an entity whose certification expires and which does not submit a renewal application that is accepted by the Secretary; and

''(C) an entity with respect to which the Secretary revokes the Secretary's acceptance of the entity's certification, pursuant to subsection (d).

''(d) REVOCATION OF ACCEPTANCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines (through a review of patient safety organization activities) that a patient safety organization does not perform one of the patient safety organization activities described in subparagraph (A) through (F) of section 921(4), the Secretary may, after notice and an opportunity for a hearing, revoke the Secretary's acceptance of the certification of such organization.

''(2) DELAYED CERTIFICATION OF COLLECTION FROM MORE THAN ONE PROVIDER.—A revocation under paragraph (1) may not be based on a determination that the organization does not perform the activity described in section 921(4)(B) if—

''(A) the listing of the organization is based on its submittal of an initial certification under subsection (a)(2)(A);

''(B) the organization has not submitted a supplemental certification under subsection (a)(2)(B); and

''(C) the 2-year period described in subsection (a)(2)(B) has not expired.

''(e) NOTIFICATION OF REVOCATION OR REMOVAL FROM LISTING.—

''(1) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under subsection (d)(1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety data is collected or analyzed by the organization of such revocation.

''(2) PUBLICATION.—Upon the revocation of an acceptance of an organization's certification under subsection (d)(1), or upon the removal of an organization from the listing under subsection (c)(2), the Secretary shall publish notice of the revocation or removal in the Federal Register.

''(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

''(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an organization within 30 days after the organization is removed from the listing under subsection (c)(2) shall have the same status as data submitted while the organization was still listed.

''(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).

''(g) DISPOSITION OF DATA.—If the Secretary removes an organization from the listing as provided for in subsection (c)(2), with respect to the patient safety data that the organization received from providers, the organization 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; or

''(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 provide technical assistance to patient safety organizations, including convening annual meetings for patient safety 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 36 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 well as 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 of Health and Human Services 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. 1395ddd) is amended—

(1) in subsection (b), by adding at the end the following:

''(6) The 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.—

''(1) EXPANSION OF PROGRAM.—

''(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid data match program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and the applicable number of State Medicaid programs under title XIX for the purpose of—

''(i) identifying vulnerabilities in both such programs;

''(ii) assisting States, as appropriate, to take action to protect the Federal share of

expenditures under the Medicaid program; and

''(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments 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) LIMITED WAIVER 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—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(2) by adding at the end the following:

''(C) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—Of the amount appropriated under subparagraph (A) for a fiscal year, the following amounts shall be used to carry out section 1893(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 benefits, including the health, financial, and social impact on affected populations, safety and medical efficacy, the impact on costs and access to insurance 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 subrogation 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 Credit

SEC. 201. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED INDIVIDUALS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the lesser of—

''(A) 90 percent of the sum of the amounts paid by the taxpayer for qualified health insurance for each individual referred to in subsection (a) for coverage months of the individual during the taxable year, or

''(B) $3,000.

''(2) MONTHLY LIMITATION.—

''(A) IN GENERAL.—For purposes of paragraph (1), amounts paid by the taxpayer for qualified health insurance for an individual for any coverage month of such individual during the taxable year shall not be taken into account to the extent such amounts exceed the amount equal to 1/12 of—

''(i) $1,111 if such individual is the taxpayer,

''(ii) $1,111 if—

''(I) such individual is the spouse of the taxpayer,

''(II) the taxpayer and such spouse are married as of the first day of such month, and

''(III) the taxpayer files a joint return for the taxable year,

''(iii) $1,111 if such individual has attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year, and

''(iv) one-half of the amount described in clause (i) if such individual has not attained the age of 24 as of the close of the taxable year and is a dependent of the taxpayer for such taxable year.

''(B) LIMITATION TO 2 YOUNG DEPENDENTS.—If there are more than 2 individuals described in subparagraph (A)(iv) with respect to the taxpayer for any coverage month, the aggregate amounts paid by the taxpayer for qualified health insurance for such individuals which may be taken into account under paragraph (1) shall not exceed 1/12 of the dollar amount in effect under subparagraph (A)(i) for the coverage month.

''(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

''(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

''(ii) who does not live apart from such taxpayer's spouse at all times during the taxable year,

any dollar limitation imposed under this paragraph on amounts paid for qualified health insurance for individuals described in subparagraph (A)(iv) shall be divided equally between the taxpayer and the taxpayer's spouse unless they agree on a different division.

''(3) INCOME PHASEOUT OF CREDIT PERCENTAGE FOR ONE-PERSON COVERAGE.—

''(A) PHASEOUT FOR UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—In the case of an individual (other than a surviving spouse, the head of a household, or a married individual) with one-person coverage, if such individual has modified adjusted gross income—

''(i) in excess of $15,000 for a taxable year but not in excess of $20,000, the 90 percent under paragraph (1)(B) shall be reduced by the number of percentage points which bears the same ratio to 40 percentage points as—

''(I) the excess of modified adjusted gross income in excess of $15,000, bears to

''(II) $5,000, or

''(ii) in excess of $20,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced by the sum of 40 percentage points plus the number of percentage points which bears the same ratio to 50 percentage points as—

''(I) the excess of modified adjusted gross income in excess of $20,000, bears to

''(II) $10,000.

''(B) PHASEOUT FOR OTHER INDIVIDUALS.—In the case of a taxpayer (other than an individual described in subparagraph (A) or (C)) with one-person coverage, if the taxpayer has modified adjusted gross income in excess of $25,000 for a 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 $12,500 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.

''(4) 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 a 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) $35,000.

''(B) MARRIED FILING SEPARATE RETURN.—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 $12,500 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) $17,500.

''(5) ROUNDING.—Any percentage resulting from a reduction under paragraphs (3) and (4) shall be rounded to the nearest one-tenth of a percent.

''(6) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(A) without regard to this section and sections 911, 931, and 933, and

''(B) after application of sections 86, 135, 137, 219, 221, and 469.

''(c) COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

''(A) as of the first day of such month such individual is covered by qualified health insurance, and

''(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

''(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.—Subparagraph (A) 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).

''(3) EMPLOYER-PROVIDED 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)).

''(4) MEDICARE, MEDICAID, AND SCHIP.—The term 'coverage month' shall not include any month with respect to an individual if, as of the first day of such month, such individual—

''(A) is entitled to any 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 XIX or XXI of such Act (other than under section 1928 of such Act).

''(5) CERTAIN OTHER COVERAGE.—The term 'coverage month' shall not include any month during a taxable year with respect to an individual if, as of the first day of such month at any time during such month, such individual is enrolled in a program under—

''(A) chapter 89 of title 5, United States Code, or

''(B) chapter 55 of title 10, United States Code.

''(6) PRISONERS.—The term 'coverage month' shall not include any month with respect to an individual if, as of the first day of such month, such 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 with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

''(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means health insurance coverage (as defined in section 9832(b)(1)) which—

''(A) is coverage described in paragraph (2), and

''(B) meets the requirements of paragraph (3).

''(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

''(A) Coverage under individual health insurance.

''(B) Coverage through a private sector health care coverage purchasing pool.

''(C) Coverage through a State care coverage purchasing pool.

''(D) Coverage under a State high-risk pool described in subparagraph (C) of section 35(e)(1).

''(E) Coverage after December 31, 2006, under an eligible State buy in program.

''(3) 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) BROAD COVERAGE.—The coverage includes inpatient and outpatient care, emergency benefits, and physician care.

''(D) GUARANTEED RENEWABILITY.—Such coverage is guaranteed renewable by the provider.

''(4) ELIGIBLE STATE BUY IN PROGRAM.—For purposes of paragraph (2)(E)—

''(A) IN GENERAL.—The term 'eligible State buy in program' means a State program under which an individual who—

''(i) is not eligible for assistance under the State medicaid program under title XIX of the Social Security Act,

''(ii) is not eligible for assistance under the State children's health insurance program under title XXI of such Act, or

''(iii) is not a State employee,

is able to buy health insurance coverage through a purchasing arrangement entered into between the State and a private sector health care purchasing group or health plan.

''(B) REQUIREMENTS.—Subparagraph (A) shall only apply to a State program if—

''(i) the program uses private sector health care purchasing groups or health plans, and

''(ii) the State maintains separate risk pools for participants under the State buy in program and other participants.

''(C) SUBSIDIES.—

''(i) IN GENERAL.—A State program shall not fail to be treated as an eligible State buy in program merely because the State subsidizes the costs of an individual in buying health insurance coverage under the program.

''(ii) EXCEPTION.—Clause (i) shall not apply if the State subsidy under the program for any adult for any consecutive 12-month period exceeds the applicable dollar amount.

''(iii) APPLICABLE DOLLAR AMOUNT.—

''(I) IN GENERAL.—For purposes of clause (ii), the applicable dollar amount is $2,000.

''(II) REDUCTION.—In the case of a family with annual income in excess of 133 percent of the applicable poverty line (as determined in accordance with criteria established by the Director of the Office of Management and Budget) but not in excess of 200 percent of such line, the dollar amount under clause (i) shall be ratably reduced (but not below zero) for each dollar of such excess. In the case of a family with annual income in excess of 200 percent of such line, the applicable dollar amount shall be zero.

''(e) ARRANGEMENTS UNDER WHICH INSURERS CONTRIBUTE TO HSA.—

''(1) IN GENERAL.—For purposes of this section, health insurance shall not be treated as qualified health insurance if the insurer makes contributions to a health savings account of the taxpayer unless such insurance is provided under an arrangement described in paragraph (2).

''(2) ARRANGEMENTS DESCRIBED.—

''(A) AMOUNTS PAID FOR COVERAGE EXCEED MONTHLY LIMITATION.—In the case of amounts paid under an arrangement for health insurance for a 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 under the arrangement—

''(i) the aggregate amount contributed by the insurer to any health savings account of the taxpayer does not exceed 90 percent of the excess of—

''(I) the amount paid by the taxpayer for qualified health insurance under such arrangement for such month, over

''(II) the amount in effect under subsection (b)(2)(A) for such month, and

''(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer, reduced by the amount of the excess under clause (i), does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

''(B) AMOUNTS PAID FOR COVERAGE LESS THAN MONTHLY LIMITATION.—In the case of an arrangement under which the amount paid for qualified health insurance for a coverage month does not exceed the amount in effect under subsection (b)(2)(A) for such month, an arrangement is described in this subparagraph if—

''(i) under the arrangement the value of the insured benefits (excluding overhead) exceeds 65 percent of the amount paid for qualified health insurance for such month, and

''(ii) the amount contributed by the insurer to a qualified health savings account of the taxpayer does not exceed 27 percent of the amount in effect under subsection (b)(2)(A) for such month.

''(3) QUALIFIED HEALTH SAVINGS ACCOUNT.—

''(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

''(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

''(ii) which may not include any amount other than contributions described in this subsection and earnings on such contributions, and

''(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

''(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

''(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

''(f) DEPENDENTS.—For purposes of this section—

''(1) DEPENDENT DEFINED.—The term 'dependent' has the meaning given such term by section 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).

''(2) SPECIAL RULE FOR DEPENDENT CHILD OF DIVORCED PARENTS.—An individual who is a child to whom section 152(e) applies shall be treated as a dependent of the custodial parent for a coverage month unless the custodial and noncustodial parent provide otherwise.

''(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151(c) is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(g) INFLATION ADJUSTMENTS.—

''(1) CREDIT AND HEALTH INSURANCE AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in subsections (b)(1)(B), (b)(2)(A), (d)(3)(B), and (d)(4)(C)(iii)(I) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting '2005' for '1996' in subclause (II) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

''(2) INCOME PHASEOUT AMOUNTS.—In the case of any taxable year beginning after 2006, each dollar amount referred to in paragraph (3) and (4) of subsection (b) shall be increased by an amount equal to—

''(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 by substituting 'calendar year 2005' 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.

''(h) ARCHER MSA CONTRIBUTIONS; HSA CONTRIBUTIONS.—If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual or under section 223 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 dependent is an eligible individual for purposes of either such section.

''(i) OTHER RULES.—For purposes of this section—

''(1) COORDINATION WITH MEDICAL EXPENSE AND PREMIUM DEDUCTIONS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—No credit shall be allowable under this section for a taxable year if a deduction is allowed under section 162(l) for the 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 35.—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) REGULATIONS.—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 subchapter A of chapter 61 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 a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the 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 reasonably 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 the 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 year following 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 shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) 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 '', or'', and by adding at the end the following:

''(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following:

''Sec. 6050U. Returns relating to payments for qualified health insurance.''.

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 36 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking ''35'' and inserting ''36'' and by inserting after the item relating to section 35 the following:

''Sec. 36. Health insurance costs for uninsured individuals.''.

(4) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to health insurance tax credit.''.

(e) 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)(4) 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 77 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 subchapter B 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 the aggregate amount paid by or on behalf of such individual as premiums under a high deductible health plan with respect to months during such year for which such individual is an eligible individual with respect to such health plan.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

''(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

''(c) SPECIAL RULES.—

''(1) DEDUCTION ALLOWABLE FOR ONLY 1 PLAN.—For purposes of this section, in the case of an individual covered by more than 1 high deductible health plan for any month, the individual may only take into account amounts paid for 1 of such plans for such month.

''(2) GROUP HEALTH PLAN COVERAGE.—

''(A) IN GENERAL.—No deduction shall be allowed to an individual under subsection (a) for any amount paid for coverage under a high deductible health plan for a month if, as of the first day of that month, that individual participates in any coverage under a group health plan (within the meaning of section 5000 without regard to section 5000(d)).

''(B) EXCEPTION FOR CERTAIN PERMITTED COVERAGE.—Subparagraph (A) shall not apply to an individual if the individual's only coverage under a group health plan for a month is coverage described in clause (i) or (ii) of section 223(c)(1)(B).

''(3) MEDICARE ELIGIBLE INDIVIDUALS.—No deduction shall be allowed under subsection (a) with respect to any individual for any month if the individual is entitled to benefits under title XVIII of the Social Security Act for the month.

''(4) HEALTH SAVINGS ACCOUNT REQUIRED.—A deduction shall not be allowed under subsection (a) for a taxable year with respect to an individual unless the individual is an account beneficiary of a health savings account during a portion of the taxable year.

''(5) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Subsection (a) shall not apply with respect to any amount which is paid or distributed out of an Archer MSA or a health savings account which is not included in gross income under section 220(f) or 223(f), as the case may be.

''(6) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting before the last sentence at the end the following new paragraph:

''(21) PREMIUMS FOR HIGH DEDUCTIBLE HEALTH PLANS.—The deduction allowed by section 224.''.

(c) COORDINATION WITH HEALTH INSURANCE COSTS CREDIT.—Section 35(g)(2) of the Internal Revenue Code of 1986 is amended by striking ''or 213'' and inserting '',213, or 224''.

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 224 as section 225 and by inserting before such item the following new item:

''Sec. 224. Premiums for high deductible health plans.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 212. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS OF SMALL BUSINESS EMPLOYEES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after section 36 the following new section:

''SEC. 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 the lesser of—

''(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) $200 ($500 if coverage 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 in the taxable year.

''(b) ELIGIBLE EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible employer' means, with respect to any taxable year, an employer which—

''(A) is a small employer, and

''(B) maintains a high deductible health plan under which all employees of the employer reasonably expected to receive at least $5,000 of compensation during the taxable year are eligible to participate.

An employer may exclude from consideration under subparagraph (B) employees who are covered by an agreement described in section 410(b)(3)(A) if there is evidence that health benefits were the subject of good faith bargaining.

''(2) EXCEPTION FOR GOVERNMENTAL AND TAX-EXEMPT EMPLOYERS.—The term 'eligible employer' shall not include the Federal Government or any employer described in section 457(e)(1).

''(3) SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) SPECIAL RULE.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(c) DEFINITIONS.—For purposes of this section—

''(1) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 223(c)(2).

''(2) QUALIFIED HEALTH SAVINGS ACCOUNT.—

''(A) IN GENERAL.—The term 'qualified health savings account' means a health savings account (as defined in section 223(d))—

''(i) which is designated (in such form as the Secretary may prescribe) as a qualified account for purposes of this section,

''(ii) which may not include any amount other than contributions described in subsection (a) and earnings on such contributions, and

''(iii) with respect to which section 223(f)(4)(A) is applied by substituting '100 percent' for '10 percent'.

''(B) SUBACCOUNTS AND SEPARATE ACCOUNTING.—The Secretary may prescribe rules under which a subaccount within a health savings account, or separate accounting with respect to contributions and earnings described in subparagraph (A)(ii), may be treated in the same manner as a qualified health savings account.

''(C) ROLLOVERS.—A contribution of a distribution from a qualified health savings account to another health savings account shall be treated as a rollover contribution for purposes of section 223(f)(5) only if the other account is a qualified health savings account.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of contributions to any health savings accounts for the taxable year which is equal to the credit determined under subsection (a).

''(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36A of such Code''.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986, as amended by subtitle A, is amended by inserting after the item relating to section 36 the following new item:

''Sec. 36A. Small employer contributions to health savings accounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle C—Improvement of the Health Coverage Tax Credit

SEC. 221. CHANGE IN STATE-BASED COVERAGE RULES RELATED TO PREEXISTING CONDITIONS.

(a) IN GENERAL.—Section 35(e)(2) of the Internal Revenue Code of 1986 (relating to requirements for State-based coverage) is amended by adding at the end the following:

''(C) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in subparagraphs (C) through (H) of paragraph (1) that imposes a pre-existing condition exclusion with respect to any individual unless—

''(i) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage,

''(ii) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage,

''(iii) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c)) applicable to the individual as of the enrollment date, and

''(iv) such exclusion is not an exclusion described in section 9801(d).''.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—Subparagraph (A) of section 35(e)(2) of such Code is amended—

(A) by striking clause (ii); and

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) WORKFORCE INVESTMENT ACT OF 1998 AMENDMENTS.—Section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended—

(A) in clause (i)—

(i) by striking subclause (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively; and

(B) by adding at the end the following:

''(iii) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.—The term 'qualified health insurance' does not include any coverage described in clauses (iii) through (ix) of subparagraph (A) that imposes a pre-existing condition exclusion with respect to any individual unless—

''(I) such exclusion relates to a physical or mental condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date the individual seeks to enroll in the coverage;

''(II) such exclusion extends for a period of not more than 12 months after the individual seeks to enroll in the coverage;

''(III) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) applicable to the individual as of the enrollment date; and

''(IV) such exclusion is not an exclusion described in section 9801(d) of such Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section 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 without regard to subsection (f)(2)(A)) shall be an eligible coverage month for 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. ELIGIBLE PBGC PENSION RECIPIENT.

(a) IN GENERAL.—Subparagraph (B) of section 35(c)(4) of such Code (relating to eligible PBGC pension recipients) is amended by inserting before the period the following '', or, after August 6, 2002, received from such Corporation a one-time single-sum pension payment in lieu of an annuity''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 201 of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

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.

(a) IN GENERAL.—Section 35(e) of such Code (relating to requirements for qualified health insurance) is amended by adding at the end the following:

''(4) APPLICATION TO PUERTO RICO, NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of this section, Puerto Rico, Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands shall be considered States.''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)) is amended by adding at the end the following:

''(D) APPLICATION TO NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, GUAM, AND THE UNITED STATES VIRGIN ISLANDS.—For purposes of subsection (a)(4)(A) and this subsection, the term 'State' shall include the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 225. 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:

''(10) DISCLOSURE OF CERTAIN RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS 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 qualifying family member as defined in section 35(d), if applicable) and the amount and period of the payment, to the extent the Secretary deems necessary for the administration of the program established by section 7527 (relating to 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—

(A) in subsection (a)(3), by inserting ''(k)(10),'' after ''(e)(1)(D)(iii),'';

(B) in subsection (l), by striking paragraph (18); and

(C) in subsection (p)—

(i) in paragraph (3)(A)—

(I) by striking ''or (9)'' and inserting ''(9), or (10)''; and

(II) by striking ''(17), or (18)'' and inserting ''or (17)''; and

(ii) in paragraph (4), by striking ''(18)'' after ''(l)(16)'' each place it appears.

(2) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by inserting ''(k)(10)'' before ''(l)(6)''.

(3) Section 7213A(a)(1)(B) of such Code (relating to unauthorized inspection of returns or return information) is amended by striking ''subsection (l)(18) or (n) of section 6103'' and inserting ''section 6103(n)''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2005.

SEC. 226. CLARIFICATION THAT STATE-BASED COBRA CONTINUATION COVERAGE IS SUBJECT TO SAME RULES AS FEDERAL COBRA.

(a) IN GENERAL.—Section 35(e)(2) of such Code (relating to state-based coverage requirements) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''(B)'' and inserting ''(C)''; and

(2) in subparagraph(B)(i), by striking ''(B)'' and inserting ''(C)''.

(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—

(1) in clause (i), in the matter preceding subclause (I), by striking ''(ii)'' and inserting ''(iii)''; and

(2) in clause (ii)(I), by striking ''(ii)'' and inserting ''(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of sections 201 and 203, respectively, of the Trade Act of 2002 (Public Law 107–210, 116 Stat. 954).

SEC. 227. APPLICATION OF RULES FOR OTHER SPECIFIED 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)(7)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(7)(A)) is amended by striking clause (ii) and redesignating clause (iii) as clause (ii).

Subtitle D—Long-Term Care Insurance

SEC. 231. SENSE OF THE SENATE CONCERNING LONG-TERM CARE.

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.

Subtitle E—Other Provisions

SEC. 241. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(c), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(B) FLEXIBLE SPENDING ARRANGEMENT.—A flexible spending arrangement is a benefit program which provides employees with coverage under which—

''(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

''(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

''(3) UNUSED 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 actual amount of reimbursement for such year under such arrangement.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

SEC. 242. MICROENTREPRENEURS.

(Section 404(8) of the Assets for Independence Act (42 U.S.C. 604 note) is amended by adding at the end the following:

''(F) HIGH DEDUCTIBLE HEALTH INSURANCE.—

''(i) IN GENERAL.—The eligible individual's contribution (as an employer or employee) for coverage under a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986).

''(ii) DEFINITION OF EMPLOYEE.—For purposes of clause (i), the term 'employee' includes an individual described in section 401(c)(1) of the Internal Revenue Code of 1986.''.

SEC. 243. STUDY ON ACCESS TO AFFORDABLE HEALTH INSURANCE FOR FULL-TIME COLLEGE AND UNIVERSITY STUDENTS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, because a considerable number of the United States' uninsured population are young adults who are enrolled full-time at an institution of higher education, Congress should determine whether health care coverage proposals targeting this population would be effective.

(b) STUDY REQUIRED.—The Government Accountability Office shall provide for the conduct of a study to evaluate existing and potential sources of affordable health insurance coverage for graduate and undergraduate students enrolled at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)).

(c) REQUIRED ELEMENTS OF STUDY.—In conducting the study under subsection (b), the Government Accountability Office shall, at a minimum, examine the following:

(1) STUDENT DEMOGRAPHICS.—

(A) IN GENERAL.—The size and characteristics of the insured and uninsured population of undergraduate and graduate students enrolled at institutions of higher education. Such data shall be differentiated as provided for in subparagraphs (B) and (C).

(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) COVERAGE.—The data concerning the insured student population collected under subparagraph (A) shall be differentiated by the sources of coverage for such students, including the number 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.

(2) IMPACT ANALYSIS.—The financial and other impact of uninsured students at such institutions, as compared to insured students, on—

(A) the health of students;

(B) the student's family;

(C) the student's educational progress; and

(D) education and health care institutions and facilities.

(3) ASSESSMENT OF EXISTING PROGRAMS.—The effect of mandatory and voluntary programs on the access of students to health insurance coverage, including—

(A) the level and type of coverage provided through mandatory and voluntary State and institutionally-sponsored health care programs currently providing health care insurance coverage to students;

(B) the average premium paid with respect to students covered under such plans;

(C) the extent to which any State or institutional health insurance plan may serve as a model for the expansion of access to health insurance for all full-time undergraduate and graduate students attending an institution of higher education; and

(D) whether such programs targeted to the student population would be more effective in reducing the overall rate of uninsured relative to proposals targeted to broader populations.

(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 an institution of higher education to include health care coverage for all of its students on a mandatory basis, including financial, regulatory, administrative, and other incentives or disincentives;

(B) a list of burdensome regulatory or administrative reporting and other requirements (from the Department of Education or other governmental agencies) that could be waived without compromising program integrity as a means of encouraging institutions of higher education to provide uninsured students with access to health care coverage;

(C) other incentives or disincentives that would increase the level of institutional participation in health care coverage programs; and

(D) an analysis of the costs and effectiveness (to reduce the number of uninsured students) of including the cost of health insurance as an allowable cost of attendance under the Higher Education Act of 1965, and the impact of such inclusion on the student's financial aid package.

(e) CONSULTATION WITH CONGRESS.—In carrying out the study under subsection (b), the Government Accountability Office shall consult on a regular basis with the Secretary of Education, the Secretary of Health and Human Services, the Committee on the Budget of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the Committee on the Budget and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report concerning the results of the study conducted under this section.

SEC. 244. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

''SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK 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 OPERATIONAL 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.

''(2) 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:

''(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

''(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all States (as determined by the Secretary).

''(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).

''(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)(ii) 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 a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(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.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) LIMITATION.—In allotting amounts under this subsection, 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)(B)(ii).

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit States that, on the date of enactment of the State High Risk Pool Funding Extension Act of 2005, are in the process of implementing programs to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(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 subsection (c)(2).

''(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)(B)(ii) for the fiscal year are not allotted, such remaining amounts shall be allotted among States receiving grants under subsection (b) for the fiscal year in amounts determined appropriate 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, in such manner, and containing such information as the Secretary may 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 2744(c)(2), except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible 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 2741;

''(ii) that is subject to limits on the rates charged to individuals;

''(iii) that is available to all individuals eligible for health insurance coverage under 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) OTHER COVERAGE.—In addition to coverage described in subparagraph (B), a State may provide for the offering of health insurance coverage that provides first dollar coverage, limits on cost-sharing, and comprehensive medical, hospital and surgical coverage, if the limits on rates for such coverage do not exceed 125 percent of the limit described in subparagraph (B)(iv).

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.''.

SEC. 245. SENSE OF THE SENATE ON AFFORDABLE HEALTH COVERAGE FOR SMALL EMPLOYERS.

It is the sense of the Senate that Congress should pass legislation to support expanded, affordable health coverage options for individuals, particularly those who work for small businesses, by streamlining and reducing regulations and expanding the role of associations and other group purchasing arrangements.

Subtitle F—Covering Kids

SEC. 251. SHORT TITLE.

This subtitle may be cited as the ''Covering Kids Act of 2005''.

SEC. 252. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

''(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

''(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

''(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

''(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

''(A) eligible entities that propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

''(i) Federal health safety net organizations; or

''(ii) faith-based organizations or consortia.

''(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

''(2) an assurance that the entity 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.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

''(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

''(e) 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.

''(f) DEFINITIONS.—In this section:

''(1) 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 organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(E) An elementary or secondary school.

''(2) 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;

''(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(D) a covered entity described in section 340B(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 of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C.

9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of 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 the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, 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 striking ''or (a)(10)(A)(ii)(IX)'' and inserting ''(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI''.

SEC. 253. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(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:

''(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

''(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

''(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

''(B) Nothing in subparagraph (A) shall be construed—

''(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

''(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;

''(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

''(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.''.

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

''(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

TITLE III—IMPROVING CARE AND STRENGTHENING THE SAFETY NET

Subtitle A—High Needs Areas

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.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) by redesignating subsections (k) through (r) as subsections (l) through (s), respectively;

(2) by inserting after subsection (j), the following:

''(k) PRIORITY FOR RESIDENTS OF HIGH NEED AREAS.—

''(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to eligible health centers in high need areas.

''(2) ELIGIBLE HEALTH CENTERS.—A health center is described in this paragraph if such health center—

''(A) is a health center as defined under subsection (a) or a rural health clinic that receives funds under section 330A;

''(B) agrees to use grant funds to provide preventive and primary healthcare services to residents of high need areas;

''(C) specifically requests such priority in the grant application;

''(D) describes how the community to be served meets the definition of high need area; and

''(E) otherwise meets all other grant requirements.

''(3) HIGH NEED AREA.—

''(A) IN GENERAL.—In this subsection, the term 'high need area' means a county or a regional area identified by the Secretary pursuant to the regulations promulgated under subparagraph (B).

''(B) REGULATIONS.—The Secretary shall promulgate regulations that define the term 'high need area' for purposes of this subsection. Such regulations shall specify procedures that the Department shall follow in determining estimates on a periodic basis in the United States of the number of medically uninsured persons and the national percentage of medically uninsured persons served by health centers (referred to in this subsection as the 'ENP') and for the designation of an area as a 'high need area' if the estimated percentage of medically uninsured individuals in the area is higher than the national average and the estimated percentage of medically uninsured individuals in the area served by health centers in the area is below the ENP.

''(C) MEDICALLY UNDERSERVED AREA.—The Secretary shall designate residents of high need areas as medically underserved for purposes of this section.

''(4) FUNDING PREFERENCE.—The Secretary may limit the amount of grants awarded to applicants from high need areas as provided for in this subsection to not less than 25 percent of the total amount of grants awarded under this subsection for each grant category for each grant period.'';

(3) in subsection (e)(1)(B), by striking ''subsection (k)(3)'' and inserting ''subsection (l)(3)'';

(4) in subsection (l)(3)(H)(iii) (as so redesignated), by striking ''or (p)'' and inserting ''or (q)'';

(5) in subsection (m) (as so redesignated), by striking ''subsection (k)(3)'' and inserting ''subsection (l)(3)'';

(6) in subsection (q) (as so redesignated), by striking ''subsection (k)(3)(G)'' and inserting ''subsection (l)(3)(G)''; and

(7) in subsection (s)(2)(A) (as so redesignated), by striking ''subsection (k)'' each place that such appears and inserting ''subsection (l)''.

SEC. 303. GRANT APPLICATION PROCESS.

Section 330(k) of the Public Health Service Act (42 U.S.C. 254b(k)) is amended by adding at the end the following:

''(5) ECONOMIC VIABILITY OF APPLICANTS.—

''(A) IN GENERAL.—In considering applications under this section, the Secretary shall ensure that an application that demonstrates economic viability, consistent with funding guidelines established by the Secretary for purposes of this section, is not disadvantaged in the evaluation process on the basis that it relies solely on Federal funding.

''(B) QUALIFICATION OF INDIVIDUALS REVIEWING APPLICATIONS.—The Secretary shall require verification that all individuals who are evaluating community health center grant applications have completed within the 3-year period ending on the date on which the application is being evaluated a training course on the community health center program which addresses the purposes served by community health centers, the critical role of community health centers in the safety net, expectations for the evaluation of applications, and the criteria for awarding grant funding.

''(C) MEDICALLY UNDERSERVED DESIGNATIONS.—Not later than 6 months after the date of enactment of this paragraph, the Administrator of the Health Resources and Services Administration shall submit to the appropriate committees of Congress a report concerning the process for designating an area or population as medically underserved. Such report shall contain recommendations for ensuring that such designations are current within the last 3 years. The report shall also detail plans for ensuring subsequent review to maintain an accurate reflection of community needs in areas and populations designated as medically underserved. Not later than 1 year after such date of enactment, the Secretary shall promulgate regulations based on the recommendations contained in the report.''.

Subtitle B—Qualified Integrated Health Care systems

SEC. 321. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

(a) ELIGIBILITY FOR GRANTS UNDER PHSA.—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 Underserved Populations

"SEC. 340H. GRANTS TO QUALIFIED INTEGRATED HEALTH CARE SYSTEMS.

''(a) DEFINITIONS.—For purposes of this section:

''(1) QUALIFIED INTEGRATED HEALTH CARE SYSTEM.—The term '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 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) OPERATING GRANTS.—

''(1) AUTHORITY.—The Secretary may make grants to private nonprofit entities for the costs of the operation of qualified integrated health care systems that provide primary, specialty, and hospital care to medically underserved populations.

''(2) AMOUNT.—

''(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 in such fiscal year.

''(B) PAYMENTS.—Payments under grants under paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds 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 description of the need for health care services in the area served by the integrated health care system;

''(ii) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; 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.

''(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 under 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 applicant 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 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 finds are needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

''(3) 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—

''(A) 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;

''(B) the system is participating (or will participate) in a community consortium 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);

''(C) all of the centers operated by the system are accredited by a national accreditation body recognized by the Secretary;

''(D) the system will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

''(E) the system provides or will provide services to individuals who are eligible for medical assistance under title XIX of the Social Security Act and to individuals who are eligible for assistance under title XXI of such Act;

''(F) 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 of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, and which discounts are adjusted on the basis of the patient's ability to pay;

''(ii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

''(II) will assure that any fees or payments required by the system for such services will be reduced or waived to enable the system to fulfill the assurance described in subclause (I); and

''(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

''(G) the system has established a governing board that selects the services to be provided by the center, approves the center's annual budget, approves the selection of a director for the center, and establishes general policies for the center;

''(H) the system has developed—

''(i) an overall plan and budget that meets the requirements of the Secretary; and

''(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

''(I) the costs of its operations;

''(II) the patterns of use of its services;

''(III) the availability, accessibility, and acceptability of its services; and

''(IV) such other matters relating to operations of the applicant as the Secretary may require;

''(I) the system will review periodically its service area to—

''(i) ensure that the size of such area is such that the services to be provided through the system (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

''(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

''(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the system, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

''(J) in the case of a system which serves a substantial proportion of individuals of limited English-speaking ability, the system has—

''(i) developed a plan and made arrangements for providing services, to the extent practicable, in the predominant language or languages of such individuals and in the cultural context most appropriate to such individuals; and

''(ii) identified one or more individuals on its staff who are fluent in such predominant language or languages and in English and whose responsibilities shall include providing guidance to such individuals and to other appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

''(K) the system maintains appropriate referral relationships between its hospitals, its physicians with hospital privileges, and any integrated health center operated by the system so that primary, specialty care, and hospital care is provided in a continuous and coordinated way; and

''(L) the system encourages persons receiving or seeking health services from the system to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this paragraph, does not violate the requirements of subparagraph (F)(ii)(I).

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(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 appropriate 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 relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

''(e) RECORDS.—

''(1) IN GENERAL.—Each entity which receives a grant under subsection (b)(1) shall

establish and maintain such records as the Secretary shall require.

''(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical 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.

''(f) AUDITS.—

''(1) IN GENERAL.—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 billing and 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 and public programs 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.

''(2) 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 by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

''(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical 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.

''(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

''SEC. 340I. INTEGRATED HEALTH CENTER.

''(a) INTEGRATED HEALTH CENTER .—The term 'integrated health center' means an health center that is operated by an integrated health care system and that serves a medically underserved population (as defined for purposes of section 330(b)(3)) by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

''(1) required primary health services (as defined in subsection (b)(1)); and

''(2) as may be appropriate for particular centers additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under paragraph (1);

for all residents of the area served by the center.

''(b) DEFINITIONS.—For purposes of this section:

''(1) REQUIRED PRIMARY HEALTH SERVICES.—The term 'required primary health services' means—

''(A) basic health services which, for purposes of this section, shall consist of—

''(i) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

''(ii) diagnostic laboratory and radiologic services;

''(iii) preventive health services, including—

''(I) prenatal and perinatal services;

''(II) appropriate cancer screening;

''(III) well-child services;

''(IV) immunizations against vaccine-preventable diseases;

''(V) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

''(VI) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

''(VII) voluntary family planning services; and

''(VIII) preventive dental services;

''(iv) emergency medical services; and

''(v) pharmaceutical services and medication therapy management services as may be appropriate for particular centers;

''(B) referrals to providers of medical services (including specialty and hospital care referrals when medically indicated) and other health-related services (including substance abuse and mental health services);

''(C) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, housing, educational, or other related services;

''(D) services that enable individuals to use the services of the center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the languages spoken by a predominant number of such individuals); and

''(E) education of patients and the general population served by the center regarding the availability and proper use of health services.

''(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the center involved. Such term may include—

''(A) behavioral and mental health and substance abuse services;

''(B) recuperative care services; and

''(C) environmental health services.

(b) COVERAGE UNDER THE MEDICARE PROGRAM.—

(1) PART B BENEFIT.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended—

(A) by striking ''services and'' and inserting ''services,''; and

(B) by striking ''services'' the second place it appears and inserting ''services, and integrated health center services''.

(2) DEFINITIONS.—Section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)) is amended—

(A) in the heading—

(i) by striking ''SERVICES AND'' and inserting ''SERVICES,''; and

(ii) by striking ''SERVICES'' the second place it appears and inserting ''SERVICES, AND INTEGRATED HEALTH CENTER SERVICES'';

(B) in paragraph (1)(B), by striking ''paragraph (5))'' and inserting ''paragraph (7));

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively; and

(D) by inserting after paragraph (4) the following new paragraph:

''(5) The term 'integrated health center services' means—

''(A) services of the type described in subparagraphs (A) through (C) of paragraph (1); and

''(B) preventive primary health services that a center is required to provide 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 or a physician described in paragraph (2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

''(6) The term 'integrated health center' means a center that is operated by a qualified integrated health care system (as defined in section 340H(a)(1) of the Public Health Service Act that—

''(A) is receiving a grant under section 340H of such Act; or

''(B) is determined by the Secretary to meet the requirements for receiving such a grant.''.

(3) PAYMENT.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of the Social Security Act (42 U.S.C. 1395k(a)(2)(D)) is amended—

(i) by striking ''and (ii)'' and inserting '', (ii)''; and

(ii) by striking ''services'' the second place it appears and inserting ''services, and (iii) integrated health center services.''.

(B) PART B DEDUCTIBLE DOES NOT APPLY.—Section 1833(b)(4) of the Social Security Act (42 U.S.C. 13951(b)(4)) is amended by inserting ''or integrated health center services'' after ''Federally qualified health center services''.

(C) EXCLUSION FROM PAYMENT REMOVED.—The second sentence of section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended by inserting ''or integrated health center services described in section 1861 (aa)(5)(B)'' after ''section 1861(aa)(3)(B)''.

(D) WAIVER OF ANTI-KICKBACK RESTRICTION.—Section 1128B(b)(3)(D) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(D)) is amended by inserting ''or by an integrated health center'' after ''Federally qualified health center''.

(4) CONFORMING AMENDMENTS.—(A) Clauses (ii) and (iv) of section 1834(a)(1)(E) of the Social Security Act (42 U.S.C. 1395m(a)(1)(E)) are each amended by striking ''section 1861(aa)(5)'' and inserting ''section 1861(aa)(7)''.

(B) Section 1842(b)(18)(C)(i) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)(i)) is amended by striking ''section 1861(aa)(5)'' and inserting ''section 1861(aa)(7)''.

(C) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (H)(i), by striking ''subsection (aa)(5)'' and inserting ''subsection (aa)(7)''; and

(ii) in subparagraph (K)—

(I) by striking ''subsection (aa)(5)'' each place it appears and inserting ''subsection (aa)(7)''; and

(II) by striking ''subsection (aa)(6)'' and inserting ''subsection (aa)(8)''.

(D) Section 1861(dd)(3)(B) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(B)) is amended by striking ''subsection (aa)(5)'' and inserting ''subsection (aa)(7)''.

(c) RECOGNITION UNDER MEDICAID.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(A) by striking ''and (C)'' and inserting '', (C)''; and

(B) 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 and which are otherwise included in the plan.'' after ''included in the plan'' the second place it appears.

(2) DEFINITIONS.—Section 1905(l) of such Act (42 U.S.C. 1396d(l)) is amended by adding at the end the following:

''(3)(A) The term 'integrated health center services' means services of the type described in subparagraphs (A) through (C) 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 or a physician described in section 1861(aa)(2)(B) is deemed a reference to an integrated health center or a physician at the center, respectively.

''(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 340H of the Public Health Service Act; or

''(ii) is determined by the Secretary, based on the recommendations of the Administrator of the Centers for 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 described in section 1905(a)(2)(D) furnished by an integrated health center in accordance with the provisions of this subsection.

''(2) FISCAL YEAR 2006.—Subject to paragraph (4), for services furnished on and after January 1, 2006, during fiscal year 2006, the State plan shall provide for payment for such services in an amount (calculated on a per visit basis) that is equal to 100 percent of the average of the costs of the center of furnishing such services during fiscal years 2004 and 2005 which are reasonable and related to the cost of furnishing such services, or based on such other tests of reasonableness as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which such regulations do not apply, the same methodology used under section 1833(a)(3), adjusted to take into account any increase or decrease in the scope of such services furnished by the center during fiscal years 2004 and 2005.

''(3) FISCAL YEAR 2007 AND SUCCEEDING FISCAL YEARS.—Subject to paragraph (4), for services furnished during fiscal year 2007 or a succeeding fiscal year, the State plan shall provide for payment for such 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 MEI (as defined in section 1842(i)(3)) 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) furnished by the center in the first fiscal year in which 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 the payment amount to be 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 1932(a)(1)(B)), the State plan shall provide for payment to the center by the State of a supplemental payment equal to the amount (if any) by which the amount determined under paragraphs (2), (3), and (4) exceeds the amount of the payments provided under the contract.

''(B) PAYMENT SCHEDULE.—The supplemental payment required under subparagraph (A) shall be made pursuant to a payment schedule agreed to by the State and the integrated health center, but in no case less frequently than every 4 months.

''(6) ALTERNATIVE PAYMENT METHODOLOGIES.—Notwithstanding any other provision of this section, the State plan may provide for payment in any fiscal year to an integrated health center for services described in section 1905(a)(2)(D) in an amount which is determined under an alternative payment methodology that—

''(A) is agreed to by the State and the center; and

''(B) results in payment to the center of an amount which is at least equal to the amount otherwise required to be paid to the center under this section.''.

(4) WAIVER PROHIBITED.—Section 1915(b) of the Social Security Act (42 U.S.C.1396n(b)) is amended in the matter preceding paragraph (1), by inserting ''1902(cc),'' after ''1902(bb),''.

(d) PROTECTION AGAINST LIABILITY.—Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) In paragraph (4), by striking ''An entity'' and inserting ''Subject to paragraph (6), an entity''; and

(2) by adding at the end the following:

''(6) For purposes of this section—

''(A) a qualified integrated health care system receiving a grant under section 340H and any integrated health center operated by such system shall be considered to be an entity described in paragraph (4); and

''(B) the provisions of this section shall apply to such system and centers in the same manner as such provisions apply to an entity described in such paragraph (4), except that—

''(i) notwithstanding paragraph (1)(B), the deeming of any system or center, or of an officer, governing board member, employee, or contractor of such system or center, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to a member of the underserved population served by the entity;

''(ii) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after January 1, 2006; and

''(iii) the Secretary shall make separate estimates under subsection (k)(1) with respect to such systems and centers and entities described in paragraph (4) (other than such systems and centers), establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for such systems and centers shall be separate from the amounts authorized by subsection (k)(2).''.

(e) EFFECTIVE DATE.—The amendments made subsections (b) and (c) shall apply to items and services furnished on or after October 1, 2005.

Subtitle C—Miscellaneous Provisions

SEC. 331. COMMUNITY HEALTH CENTER COLLABORATIVE ACCESS EXPANSION.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

''(s) 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 section through a contract with 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 PROHIBITION FOR CERTAIN HOSPITALS.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) in clause (i), by adding ''and'' at the end;

(2) in clause (ii), by striking ''; and'' and inserting a period; and

(3) by striking clause (iii).

(b) PERMITTING USE OF MULTIPLE CONTRACT PHARMACIES.—Section 340B f 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.''.

(c) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—Section 340B of the Public Health Service Act (42 U.S.C. 256b), as amended by subsection (b), is further amended by adding at the end the following:

''(f) IMPROVEMENTS IN PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary shall provide, from funds appropriated under paragraph (2), for improvements in the integrity and administration of the program under this section in order to prevent abuse and misuse of discounted prices made available under this section. Such improvements shall include the following:

''(A) The development of a system to verify the accuracy of information regarding covered entities that is listed on the Internet website of the Department of Health and Human Services relating to this section.

''(B) The establishment of a third-party auditing system by which covered entities and manufacturers are regularly audited to ensure compliance with the requirements of this section.

''(C) The conduct of such audits under subsection (a)(5)(C) that supplement the audits conducted under subparagraph (B) as the Secretary determines appropriate and the implementation of dispute resolution guidelines and other compliance programs.

''(D) The development of more detailed guidance regarding the definition of section 340B patients and describing options for billing under the medicaid program under title XIX of the Social Security Act in order to avoid duplicative discounts.

''(E) The issuance of advisory opinions within defined time periods in response to questions from manufacturers or covered entities regarding the application of the requirements of this section in specific factual circumstances.

''(F) Insofar as the Secretary determines feasible, providing access through the Internet website of the Department of Health and Human Services on the prices for covered drugs made available under this section, but only in a manner (such as through the use of password protection) that limits such access to covered entities.

''(G) The improved dissemination of educational materials regarding the program under this section to covered entities that are not currently participating in such programs including regional educational sessions.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for fiscal year 2006 and each succeeding fiscal year.''.

SEC. 333. FORBEARANCE FOR STUDENT LOANS FOR PHYSICIANS PROVIDING SERVICES IN FREE CLINICS.

(a) IN GENERAL.—Section 428(c)(3)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(3)(A)) is amended—

(1) in clause (i)—

(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;''; and

(2) in clause (ii)(III), by inserting ''or (i)(V)'' after ''clause (i)(III)''.

(b) PERKINS PROGRAM.—Section 464(e) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(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 224 of the Public Health Service Act (42 U.S.C. 233) is amended—

(1) in subsection (g)(1)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''or employee'' and inserting ''employee, or (subject to subsection (k)(4)) volunteer practitioner''; and

(ii) in the second sentence, by inserting ''and subsection (k)(4)'' after ''subject to paragraph (5)''; and

(B) by adding at the end the following:

''(I) For purposes of this subsection, the term 'employee' shall include a health professional who volunteers to provide health-related services for an entity described in paragraph (4).'';

(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 such 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 (g)(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 weekly number of hours of 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)—

(A) in subparagraph (D), by striking clause (i) and inserting the following:

''(i) 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

(B) by adding at the end the following:

''(G) The health care practitioner is providing the services involved as a paid employee of the free clinic.''; 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.

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.

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 pleased 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 available on the Internet 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 of 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 proud 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 electronically and forwarded to 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 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 CFI, requires journalists and interested members of the public to review 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 format.

The current filing system also means that the detailed coding that the FEC does, which allows for more sophisticated searches and analysis, is completed over a week later for Senate reports than for House reports. This means that the final disclosure reports covering the first two weeks of October are often not susceptible to detailed scrutiny before the election.

It is time for the Senate to relinquish its backward attitude toward campaign finance disclosure. I urge the enactment of this simple bill that will make

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 public 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 350,000 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 cosponsor 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)(1) and forwarded to the Commission'' after ''Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any designation, statement, or report required to be 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 legislation that will require Senate candidates to file campaign finance reports in electronic form. This bill will finally remove the exemption the Senate has given itself from an important requirement of campaign finance disclosure laws that apply to everyone else, including candidates for the U.S. House of Representatives and Political Action Committees (PACs).

Political committees active in Federal elections must submit their quarterly financial reports for disclosure by the Federal Election Commission (FEC). Anyone interested can nearly instantaneously download the reports from the FEC website and conduct computer searches to learn about the contributions and expenditures of individual candidates for the House, non-Senate national party committees and PACs. The current problem is that they cannot do the same for Senate candidates and parties because of the Senate's insistence on paper rather than electronic filing. The FEC must do more processing of Senate paper reports than of House electronic ones. This involves printing or copying the Senate reports, up to 10,000 pages a day at times, hand-coding transactions that cannot be automatically processed, the keypunching the data into the electronic database. House electronic reports do not need the same treatment. The end result is that in contrast to the House, information from the Senate paper reports are often not available until well after the election has occurred.

Because of this problem, it is impossible for voters to be well-informed about the campaign finance information of their Senators and Senate candidates. If a voter wants to consider the nature of the campaign finance support received by a Senate candidate and compare that support to Senate legislative votes as a factor in deciding for whom they will cast a vote, they simply cannot do so due to the antiquated nature of the reporting system.

To address this problem, our legislation requires Senate candidates to file their campaign finance reports electronically with the Secretary of the Senate. Within 24 hours of receipt of those reports, the Secretary is required to forward those reports to the FEC. The FEC, in turn is required to make those reports available on the Internet within 24 hours as they do other reports. Therefore, electronic versions of Senate reports will be available to the public within 48 hours of their filing.

Electronic reports are not only transmitted instantly but are more accurate than paper submissions because software can easily correct mistakes. On the other hand, hand entering of data is always prone to error. Furthermore, the data in electronic reports can be rapidly searched via the Internet for answers to specific questions. Voters will no longer have to go through the time consuming process of reading pages and pages filed by Senate candidates or Senate party committees to figure out the major donors and their employers, and the major recipients of campaign spending. Instead, they can downlown a filed report from the FEC website onto their personal computers and quickly locate the information they need. This creates effective public disclosure.

The Senate's current failure to provide its constituents with electronically disclosed, timely information is unconscionable. Senate filings should follow the same criteria as other campaign finance reports. There must not be a separate standard for the Senate. Ironically, while they do not currently file electronically, Senators and Senate candidates already use electronic software in compiling their paper reports. If Senators and Senate candidates can use technology to run their offices and websites, why can't they use it to better inform their own constituents about how their campaigns are funded? Our constituents have a right to that information.

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.

Mr. JEFFORDS. Mr. President, I rise today to introduce the ''Captive Primate Safety Act of 2005''. I am joined by Senators CHAFEE, LIEBERMAN and LAUTENBURG.

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 America according to some estimates. 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), marmosets, 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, universities 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 Zoo and Aquarium Association, the American Veterinary Medical Association, Defenders of Wildlife 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:

S. 1509

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 ''Captive Primate Safety Act of 2005''.

SEC. 2. ADDITION OF NON-HUMAN PRIMATES TO THE DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2(g) of 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, 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.

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 had 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.'' Yet, as a Nation, we have done little more than establish this memorial to publicly acknowledge the bravery of those who fought in the Korean War. The Korean War has been termed by many as the ''Forgotten War.'' Freedom is not free. 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, 1985. 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 17,000. 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 and sacrifice. 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

''(a) FEDERAL CHARTER.—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 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) CLAIM 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) CORPORATE 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 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 10101(b) 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.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"1201. Korean War Veterans Association, Incorporated ..... 120101".

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.

Mr. DEMINT. I rise today to offer a bill that would amend the medical and dental expense income tax deduction so that nonprescription or over-the-counter drugs would be allowed as a deductible expense for taxpayers who itemize their deductions.

Currently, the IRS list of qualifying medical expenses does not include OTCs; this bill makes them a qualifying medical expense. The bill does this by striking the subsection that limits the deduction for drug expenses to prescription drugs and insulin. It also makes it easier for people to reach and exceed the 7.5 percent threshold.

I believe this bill will be particularly helpful for low income taxpayers and those with high healthcare expenses. Over 5 percent of tax filers currently claim the deduction for medical and dental expenses. Additionally, individual taxpayers can also claim the medical expenses of their spouses and dependent children—so pediatric cough syrup bought by parents for their children would be deductible if OTC medical expenses allowed.

This bill recognizes that over-the-counter drugs may be a big cost for some individuals and families. In addition, Americans using a Flexible Spending Account or Health Savings Account get preferred tax treatment for OTCs, but Americans without them do not. Tax treatment of prescription and non-prescription drugs should be equal in this area.

I am grateful to Senator BILL NELSON for joining me as a lead sponsor of this bill. I am also pleased that Representatives MELISSA HART and MIKE ROSS have introduced companion legislation in the House. These individuals understand that reducing the cost of medicine is a goal we should all support. I urge my Senate colleagues to support 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. 1514

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 "OTC Medicine Tax Fairness Act of 2005".

SEC. 2. REPEAL OF MEDICINE AND DRUGS LIMITATION ON DEDUCTION FOR MEDICAL CARE.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by striking subsection (b).

(b) CONFORMING AMENDMENT.—Section 213(d) of such Code is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. NELSON of Florida. Mr. President, I am pleased to join my colleague Senator JIM DEMINT as we introduce the OTC Medicine Tax Fairness Act of 2005.

Health care costs are continuing to climb across America and the medical expense deduction is becoming increasingly popular as Americans spend more out-of-pocket for health care. The OTC Medicine Tax Fairness Act of 2005 is designed to help make medicine more affordable by allowing consumers to include over-the-counter, OTC, drugs as a deductible expense for people who itemize their deductions.

Under the OTC Medicine Tax Fairness Act of 2005, OTC medicines would be allowed as tax deductible medical expenses. Under current law, taxpayers who itemize income tax deductions may deduct out-of-pocket expenses for medical care not reimbursed by health insurance, provided it exceeds 7.5 percent of their adjusted gross income. Eligible expenses under the tax code currently include non-reimbursed costs for doctor visits, bandages, crutches, acupuncture, chiropractic care, hearing

aids, 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 treatment of prescription and nonprescription drugs should be equal in this area.

The medical expense deduction is particularly helpful for low income taxpayers with high health care expenses. Taxpayers in the lower income brackets use the medical expense deduction more frequently than higher income earners. According to the IRS website, over 3 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. According to U.S. 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.

American consumers 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 law has not kept up with 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 patients 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 as or better than care provided by physicians. By passing this legislation, we honor the commitment of these frontline 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. 1396d(t)(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(gg)).

''(D) A physician assistant (as defined in section 1861(aa)(5)(A)).''.

(b) FEE-FOR-SERVICE PROGRAM.—Section 1905(a)(21) of such Act (42 U.S.C. 1396d(a)(21)) is amended—

(1) by inserting ''(A)'' after ''(21)'';

(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'' and inserting ''services furnished by a nurse practitioner (as defined in section 1861(aa)(5)(A)) or by a clinical nurse specialist (as defined in section 1861(aa)(5)(B)) which the nurse practitioner or clinical nurse specialist'';

(3) by striking ''the certified pediatric nurse practitioner or certified family nurse practitioner'' and inserting ''the nurse practitioner or clinical nurse specialist''; and

(4) by inserting before the semicolon at the end the following: ''and (B) services furnished by a physician assistant (as defined in section 1861(aa)(5)) with the supervision of a physician which the physician assistant is legally authorized to perform under State law''.

(c) INCLUDING IN MIX OF SERVICE PROVIDERS UNDER MEDICAID MANAGED CARE ORGANIZATIONS.—Section 1932(b)(5)(B) of such Act (42 U.S.C. 1396u–2(b)(5)(B)) is amended by inserting '', with such mix including nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists (as defined in section 1861(bb)(2))'' after ''services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished in calendar quarters beginning on or after 90 days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with Senator DEWINE which will close a loophole in the Indian Gaming Regulatory Act (IGRA). 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 outlining 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 can only be, and I quote, ''located in a State that permits such gaming for any purpose by any person, organization or entity.''

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 that State under the 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 revealed that these uncertainties continue when it ruled in favor of the Northern Arapaho tribe in their efforts to build a casino, with ''Vegas Style'' gambling in Wyoming. In this instance, the tribe argued that it is entitled to offer full Class III gambling 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 gambling 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 casinos 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,

SECTION 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:

''(11) COMMERCIAL PURPOSE.—

''(A) IN GENERAL.—The term 'commercial purpose', with respect to a gaming activity under this Act, means a gaming activity operated on a for-profit basis.

''(B) EXCLUSION.—The term 'commercial purpose', with respect to a gaming activity under this Act, does not include any gaming activity operated on a charitable or nonprofit basis.''.

(b) GAMING ACTIVITIES.—Section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)) is amended by striking paragraph (1) and inserting the following:

''(1) CLASS III GAMING ACTIVITIES.—

''(A) IN GENERAL.—A class III gaming activity shall be lawful on Indian land only if the activity is—

''(i) authorized by an ordinance or resolution that—

''(I) is adopted by the governing body of the Indian tribe that has jurisdiction over the Indian land on which the activity is proposed to be conducted;

''(II) meets the requirements of subsection (b); and

''(III) is approved by the Chairman;

''(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 in which the activity is located, 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 conditions found in the Pacific States;

Whereas the Pacific States are internationally renowned for producing varieties of delicious, sweet, and juicy pears;

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 no 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 THE 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 by Japan on the United States at Pearl Harbor, Hawaii, on 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 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 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 and displayed bravery and heroism 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 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.

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 access 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 marinas 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 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 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 800 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;

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, increasing the need for 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 amendment SA 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 1609. 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 1610. 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 1611. 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 1612. 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 1613. 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 1614. 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 1615. 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. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER) 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 him 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. JEFFORDS, Mr. LEVIN, Mrs. BOXER, Ms. MIKULSKI, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1622. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1623. Mr. LEVIN (for himself and Mr. DAYTON) 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 or other relief resulting from the misuse of their products by others; which was ordered to lie on the table.

SA 1631. 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 1632. 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, 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

SA 1606. Mr. FRIST proposed an amendment to amendment SA 1605 proposed by Mr. FRIST (for 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) an action or proceeding 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.

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:

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

A qualified civil liability action may not be brought in any Federal or State court.

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:

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 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.

(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)

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, 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 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.

(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 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, 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 in which a manufacturer or seller of a qualified product failed to perform employee background checks or knew, or had reasonable cause to believe, that employees

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)

SA 1613. 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 in which a manufacturer or seller of a qualified product failed to report the theft or loss of a firearm from the inventory or collection 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)

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; or

(vi) any case in which a manufacturer or seller of a qualified product failed to maintain theft prevention measures.

(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)

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'' 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:

''(d)(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 handgun or center-fire rifle 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.

(b) AFFIRMATIVE DEFENSE.—It shall be a defense to any prosecution for a violation of the prohibition under subsection (a) that a business was shown an 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; and

(2) $5,000 or 500 hours of community service for each subsequent violation.

(d) DEFINITIONS.—In this section, the following definitions shall apply:

(1) BUSINESS.—The term ''business'' means any lawful activity, except a farm operation, that is conducted—

(A) primarily for the purchase, sale, lease, or rental of personal or real property, or for the manufacture, processing, or marketing of products, commodities, or any other personal property; or

(B) primarily for the sale of services to the public.

(2) ENTERTAINMENT SOFTWARE RATINGS BOARD.—The term ''Entertainment Software Ratings Board'' means the independent rating system, or any successor ratings system—

(A) established by the Interactive Digital Software Association; and

(B) developed to provide information to consumers regarding the content of video and computer games.

(3) VIDEO GAME.—The term ''video game'' means an electronic object or 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. 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 13, after line 4, add the following:

SEC. 5. FIVE-SEVEN PISTOL.

(a) FINDINGS AND PURPOSE.—

(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.

(B) A Five-seveN Pistol and accompanying ammunition, manufactured by FN Herstal of Belgium as the ''5.7 x 28 mm System'', has recently been recovered by law enforcement on the streets. The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are legally available for purchase by civilians under current law.

(C) The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are capable of penetrating level IIA armor. The manufacturer advertises that ammunition fired from the Five-seveN will perforate 48 layers of Kevlar up to 200 meters and that the ammunition travels at 2100 feet per second.

(D) The Five-seveN Pistol, and similar handguns designed to use ammunition capable of penetrating body armor, pose a devastating threat to law enforcement.

(2) PURPOSE.—The purpose of this section is to protect the Nation's law enforcement officers by—

(A) testing handguns and ammunition for capability to penetrate body armor; and

(B) prohibiting the manufacture, importation, sale, or purchase by civilians of the Five-seveN Pistol, ammunition for such pistol, or any other handgun that uses ammunition found to be capable of penetrating body armor.

(b) ARMOR PIERCING AMMUNITION.—

(1) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) a projectile that—

''(I) may be used in a handgun; and

''(II) the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor.''.

(2) DETERMINATION OF CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d)(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 type of handgun used, the length of the barrel of the handgun, the amount and kind of powder used to propel the projectile, and the design of 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.''.

(c) ARMOR PIERCING HANDGUNS AND AMMUNITION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding after subsection (y) the following:

''(z) FIVE-SEVEN PISTOL.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, import, market, sell, ship, deliver, possess, transfer, or receive—

''(A) the Fabrique Nationale Herstal Five-SeveN Pistol;

''(B) 5.7 x 28mm SS190 and SS192 cartridges; or

''(C) any other handgun that uses armor piercing ammunition.

''(2) EXCEPTIONS.—This subsection shall not apply to—

''(A) any firearm or armor piercing ammunition manufactured for, and sold exclusively to, military, law enforcement, or intelligence agencies of the United States; and

''(B) the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm or armor piercing ammunition by a licensed manufacturer, or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm or ammunition to determine whether paragraph (1) applies to such firearm.''.

(2) PENALTIES.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking ''or (q)'' and inserting ''(q), or (z)''.

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 for an injury caused by—

(I) a Fabrique Nationale Herstal Five-SeveN Pistol;

(II) the use of a 5.7 x 28mm SS190 or SS192 cartridge; or

(III) the use of any other handgun using armor piercing ammunition, as defined in section 921(a)(17)(B) 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)

SA 1619. Mr. CORZINE (for himself, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER) 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. LAW ENFORCEMENT EXCEPTION.

Nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

SA 1620. Mr. LAUTENBERG (for himself and Mr. CORZINE) 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 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)

SA 1621. Mrs. FEINSTEIN (for herself, Mr. CORZINE, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. LEVIN, Mrs. BOXER, Ms. MIKULSKI, and Mr. KENNEDY) 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. FIFTY-CALIBER SNIPER WEAPONS.

(a) COVERAGE 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 striking ''(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 ''(6) a .50 caliber sniper weapon; (7) a machine gun; (8) any silencer (as defined in section 921 of title 18, United States Code); and (9) a destructive device.''.

(2) DEFINITIONS.—

(A) IN GENERAL.—Section 5845 the Internal Revenue Code of 1986 (defining terms relating to firearms) is amended by adding at the end the following:

''(n) FIFTY CALIBER SNIPER WEAPON.—The term '.50 caliber sniper weapon' means a rifle

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) MODIFICATION 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 sniper weapon made or transferred after the date of enactment of this Act.

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 rifle 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.''

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 that 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 that term under subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term ''reckless'' has the meaning given that term under section 2A1.4 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) 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.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or 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)) for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A)(i) the manufacture 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

''(ii) 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 on or off duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a 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);

''(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 in the exceptions stated in section 923(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 with the handgun, shall be entitled to immunity from a qualified civil liability action.

''(B) PROSPECTIVE 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 any 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—

''(I) 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

''(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(B) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, 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 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) 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.''.

(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 compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or 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(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.

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 injury or death caused by a qualified 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.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or 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)) for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A)(i) the manufacture 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

''(ii) 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 on or off duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a 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);

''(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 in the exceptions stated in section 923(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 with the handgun, shall be entitled to immunity from a qualified civil liability action.

''(B) PROSPECTIVE 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 any 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—

''(I) 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

''(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(B) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, 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 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) 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.''.

(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 compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or 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(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.

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; as follows:

At the end of the bill, add the following:

TITLE VI—RAIL INFRASTRUCTURE BONDS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Passenger Rail Investment and Improvement Financing Act of 2005''.

SEC. 602. TAX CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit for Holders of Qualified Rail Infrastructure Bonds

''Sec. 54. Credit to holders of qualified rail infrastructure bonds.

''SEC. 54. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified rail infrastructure bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance 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 REDEMPTION.—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.

''(c) 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 (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified rail infrastructure bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on

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 separation 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 coupon.

''(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 issue meets the requirements of subsection (f) (relating to arbitrage).

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

''(A) to spend 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 such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, 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 the issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended 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 issue 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 issue 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 and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

''(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a qualified rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards under subsection (c) shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(i) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) QUALIFIED PROJECT.—The term 'qualified project' means any project described in section 26106(a)(2) of title 49, United States Code.

''(3) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(2), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified rail infrastructure bond.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified rail infrastructure bond 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.

''(6) REPORTING.—Issuers of qualified rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED RAIL INFRASTRUCTURE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) 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 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by 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 (g) the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by 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.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts 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 6401(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 section, the Secretary of the Treasury shall issue regulations for carrying out this section and the amendments made by this section.

(e) INTERCITY RAIL FACILITIES.—Section 142(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL REQUIREMENTS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless the requirements of paragraphs (1) through (4) of section 26106(a) of title 49, United States Code, are met.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SA 1628. Mr. MCCONNELL (for Mr. HAGEL) proposed an amendment to the

resolution S. Res. 86, designating August 16, 2005, as ''National Airborne Day''; 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 other appropriate programs, ceremonies and activities.

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; as follows:

On page 3, line 8, to page 4, line 1, strike ''in creating an online database that provides'', and insert ''to make readily accessible''.

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 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 in which a manufacturer or seller of a qualified product caused an injury by means of a qualified product that is involved in illegal interstate firearms trafficking punishable under section 924 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)

SA 1631. 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 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 in which a manufacturer or seller of a qualified product caused an injury by failing to retain for 30 days the records of a sale to an individual who is required, under regulations prescribed under section 114(h) of title 49, United States Code, to be prevented from boarding an aircraft.

(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)

SA 1632. 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 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 in which a manufacturer or seller of a qualified product caused an injury by failing to keep adequate records of the sale of a qualified product from the inventory or collection of the manufacturer or seller, as required under section 923(g) 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)

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee On National Parks of the Committee on Energy and Natural Resources has scheduled a field hearing to gather information regarding invasive species. Specific areas of interest include challenges and needs of the National Park Service, existing legislation, legislative solutions, and use of partnerships for managing invasive species in and around National Parks.

The hearing will be held on Tuesday, August 9, 2005, at 10 a.m. in the Kilauea Visitors Center auditorium, Hawaii Volcanoes National Park, Hilo, HI.

Becaue of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 27, 2005, at 2:30 p.m., on 1372, the Fair Ratings Act, in SR–253.

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, July 27, 2005, at 10 a.m., to hear testimony on ''Improving Quality in Medicare: The role of Value-Based Purchasing.''

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 27, 2005, at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, July 27, 2005, at 10 a.m., for a hearing titled, ''Chemical Facility Security: What Is the Appropriate Federal Role?, Part II.''

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 gaming pursuant to the Indian Gaming Regulatory Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

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 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 SR–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 on Wednesday, July 27, 2005, at 2:30 p.m., for a hearing regarding ''Who's Watching the Watchdog? Examining Financial Management at the SEC.''

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 on United Nations Peacekeeping Reform.

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 this bill.

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.

MEDICAL DEVICE USER FEE STABILIZATION ACT OF 2005

Mr. MCCONNELL. 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.

The assistant legislative clerk read as follows:

A bill (H.R. 3423) to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

There being no objection, the Senate proceeded to consider the bill.

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 represents 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, MIKULSKI, 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 DeLoatche. 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 it their strong support.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3423) was read the third time and passed.

FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH IMPROVEMENT ACT

Mr. MCCONNELL. 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.]

S. 302

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 ''Foundation for the National Institutes of Health Improvement Act''.

[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 (i)(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.''; and

[(ii) in subparagraph (G), by inserting ''appointed'' after ''that the number of'';

[(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), and shall not affect the power of the remaining appointed members to execute the duties of the Board.''; and

[(C) in paragraph (5), by inserting ''appointed'' after ''majority of the'';

[(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 may accept transfers of funds from the Foundation.''; and

[(3) by striking subsection (l) and inserting the following:

[''(l) 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.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Foundation for the National Institutes of Health Improvement Act''.

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 (i)(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.''; and

(ii) in subparagraph (G), by inserting ''appointed'' after ''that the number of'';

(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), and shall not affect the power of the remaining appointed members to execute the duties of the Board.''; and

(C) in paragraph (5), by inserting ''appointed'' after ''majority of the'';

(2) in subsection (j)—

(A) in paragraph (2), by striking ''(d)(2)(B)(i)(II)'' and inserting ''(d)(6)'';

(B) in paragraph (4)—

(i) in subparagraph (A), by inserting '', including an accounting of the use of amounts transferred under subsection (l)'' before the period at the end; and

(ii) by striking subparagraph (C) and inserting the following:

''(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

''(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge that shall not exceed the cost of providing the copy; and

''(ii) to the appropriate committees of Congress.''; and

(C) in paragraph (10), by striking ''of Health.'' and inserting ''of Health and the National Institutes of Health may accept transfers of funds from the Foundation.''; and

(3) by striking subsection (l) and inserting the following:

''(l) 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 and not more than $1,250,000 to the Foundation.''.

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 annual allocation is capped at $1.25 million. These funds will enable the Foundation to use its own resources for the actual support of projects to strengthen NIH programs, rather than raise money for its own expenses. As the bill 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. As one important example, the Edmond J. Safra Family Lodge on the NIH campus gives families of patients receiving in-patient treatment at the NIH Clinical Center a place to stay, at no cost to them.

In addition, the Foundation has formed partnerships with the NIH to develop new cancer treatments, 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 $200 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.

Mr. MCCONNELL. 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

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. 302), as amended, was read the third time and passed.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

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.

(Strike the part shown in black brackets and insert the part shown in italic.)

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(i)) is amended—

[(1) in paragraph (2)—

[(A) in subparagraph (A), by striking ''$500,000'', and inserting ''$1,500,000''; and

[(B) in subparagraph (B), by striking ''not more than $500,000'' and inserting ''not less than $500,000, and not more than $1,500,000''; and

[(2) by adding at the end the following:

''[(4) SUPPORT SERVICES.—The Director of the Centers for Disease Control and Prevention may provide facilities, utilities, and support services to the Foundation if it is determined by the Director to be advantageous to the programs of such Centers.''.]

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) REPORTS.—Section 399G(h)(7) of the Public Health Service Act (42 U.S.C. 280e–11(h)(7)) is amended—

(1) in subparagraph (A), by inserting '', including an accounting of the use of amounts provided for under subsection (i)'' before the period; and

(2) by striking subparagraph (C) and inserting the following:

''(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

''(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge not to exceed the cost of providing the copy; and

''(ii) to the appropriate committees of Congress.''.

(c) FEDERAL FUNDING.—Section 399G(i) of the Public Health Service Act (42 U.S.C. 280e–11(i)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''$500,000'', and inserting ''$1,250,000''; and

(B) in subparagraph (B), by striking ''not more than $500,000'' and inserting ''not less than $500,000, and not more than $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 facilities, utilities, and 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 motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The 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.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 447) to authorize the conveyance of certain Federal land in the State of New Mexico.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 447) was read the third time and passed, as follows:

S. 447

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 ''Jornada Experimental Range Transfer Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Chihuahuan Desert Nature Park Board.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.

(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;

(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 shall—

(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. SNOWE. 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 seven times that this 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 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 crisis through 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 PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1517) was read the third time and passed, as follows:

S. 1517

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

SECTION 1. WOMEN'S BUSINESS CENTERS.

Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended by adding at the end the following:

''(5) PRIOR RECIPIENTS.—Notwithstanding subsection (l)(1), any recipient of a grant under subsection (l) whose 5-year project ended 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, made available 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 proceed to the consideration of S. Res. 216, which was 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. 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.

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. 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, Hawaii, on 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 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 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 and displayed bravery and heroism 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 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 people of the United States value highly recreational time and the ability to access 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 marinas 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 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 gateways to 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 ''National 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 ''National Historically Black Colleges and Universities Week''.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 11, 2005, as ''National 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, the resolution, 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 (S. Res. 198 and S. Res. 201) were agreed to.

The preambles were agreed to.

The resolutions, with 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 against that oppression;

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 July and August of 1980, workers 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 August 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 religious services on television and radio, and the right to establish independent trade unions;

Whereas the Communist Government of Poland introduced martial law in December 1981 in an attempt to block the growing influence of the Solidarity Movement;

Whereas the support of the Polish-American community was essential and crucial for the Solidarity Movement to survive and remain active during that difficult time;

Whereas the people of the United States were 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 in 1983 for continuing his struggle for freedom in Poland;

Whereas the Solidarity Movement persisted underground during the period when martial law was imposed in Poland 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 Poland's first Prime Minister 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 activities of its leaders and members were part of the historic series of events that led to the fall of the Berlin Wall on November 9, 1989;

Whereas, on November 15, 1989, Lech Walesa'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, on 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 to restore liberty in Poland and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember the struggle and sacrifice 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 chronic 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 behavior, encounters with the justice system, interpersonal difficulties, and substance abuse;

Whereas AD/HD, the most extensively studied mental disorder in children, affects an estimated 3 percent to 7 percent (2,000,000) of young school-age children and an estimated 4 percent (8,000,000) of adults across racial, ethnic, and socioeconomic lines;

Whereas scientific studies clearly indicate that AD/HD runs in families and suggest that genetic inheritance is an important risk factor, with between 10 and 35 percent of children with AD/HD having a first-degree relative with past or present AD/HD, and with approximately 50 percent of parents who had AD/HD having a child with the disorder;

Whereas despite the serious consequences that can manifest in the family and life experiences of an individual with AD/HD, studies indicate that less than 85 percent of adults with the disorder are diagnosed and less than one-half of children and adults with the disorder are receiving treatment;

Whereas poor and minority communities are particularly underserved by AD/HD resources;

Whereas the Surgeon General, the American Medical Association (AMA), the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry (AACAP), the American Psychological Association, the American Academy of Pediatrics (AAP), the Centers for Disease Control and Prevention (CDC), and the National Institute of Mental Health, among others, recognize the need for proper diagnosis, education, and treatment of AD/HD;

Whereas the lack of public knowledge and understanding of the disorder play a significant role in the overwhelming numbers of undiagnosed and untreated cases of AD/HD, and the dissemination of inaccurate, misleading information contributes to the obstacles preventing diagnosis and treatment of the disorder;

Whereas lack of knowledge, combined with the issue of stigma associated with AD/HD, has a particularly detrimental effect on the diagnosis and treatment of AD/HD;

Whereas there is a need to educate health care professionals, employers, and educators about the disorder and a need for well-trained mental health professionals capable of conducting proper diagnosis and treatment activities; and

Whereas studies by the National Institute of Mental Health and others 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 supporting mental health 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 AD/HD; 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 AD/HD; 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. 104 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. 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.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I understand there is a Feingold amendment at the desk. I ask the amendment be considered and agreed to, the resolution as amended be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, 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. 1629) was agreed to, as follows:

AMENDMENT NO. 1629

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. 104), 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 the order 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 hydropower 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. HAUSER, RESIGNED.

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 LERNER.

EXECUTIVE OFFICE OF THE PRESIDENT

BERTHA K. MADRAS, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE ANDREA G. BARTHWELL.

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)

JAN CELLUCCI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2009, VICE JOAN CHALLINOR, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ERROL R. SCHWARTZ, 0000

EXTENSIONS OF REMARKS

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 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:

Vote No. 383—previous question, ''aye''; vote No. 384—adoption of the rule for H.R. 2601, ''aye''; vote No. 385—Hyde amendment, ''aye''; vote No. 386—Kennedy (MN)/Hooley/Osborne/Souder amendment, ''aye''; vote No. 387—Hooley/Souder/Baird amendment, ''aye''; vote No. 388—Souder #4 amendment, ''aye''; vote No. 389—Smith (NJ) amendment, ''aye''.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

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); ''no'' 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).

TRIBUTE TO DR. WILLIAM W. TIPTON, JR.

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. MATSUI. Mr. Speaker, I rise in tribute to Dr. William W. Tipton, Jr., a man whose level of career achievement was matched only by his passion for living life to its fullest. Sadly, Dr. Tipton passed away on May 19, 2005 at the age of 64. As his friends and family gather to celebrate Bill's remarkable life, I ask all of my colleagues to join with me in saluting this outstanding citizen.

Born in San Francisco and raised in Sacramento, Bill's commitment to service began as he entered the Catholic Diocesan Seminary at age 14 to study for the priesthood. In 1967, he graduated from Creighton Medical School, an institution that would 36 years later recognize him with its alumni achievement award for his ''distinguished service to his profession and humankind.''

He first used his medical training to serve his country during the Vietnam War, first serving as a General Surgeon for Deployment on the U.S.S. *Ticonderoga*, and then as an Orthopedic Resident at Great Lakes Naval Hospital. After his honorable service, he returned to his native California to complete his orthopedic residency at the University of California, Davis.

Throughout his illustrious career in medicine, 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.

THE 52ND ANNIVERSARY OF THE START OF THE CUBAN REVOLUTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

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 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

the removal of Fidel Castro from power, but rather you will find hungry families living in unnecessary poverty. In 2005 you will find a large constituency of Cuban Americans such as U.S. soldier Sgt. Carlos Lazo, who are angered and embittered by U.S. policies that limit visits with their family members to only once every three years.

You will find a Cuban-American constituency angered by the fact that in the wake of Hurricane Dennis (a disastrous force that wrecked havoc on the island and killed 16) they are powerless to help their family members still on the island because of remittance and aid restrictions.

Cuban people are well known for their strong sense of family values. It is therefore an outrage that a group of people who hold family bonds in such high esteem are prevented from assisting their families in a time of overwhelming need because of outdated and unreasonable U.S. policy.

Today marks the 52nd anniversary of the start of the Cuban-Revolution and for 46 years Cuba's government has remained the same. This is overwhelming evidence that U.S. policy towards Cuba must be reevaluated.

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 meaningful channels of communication to improve our relationship and prevent misunderstandings.

It is a policy that denies American companies and businesses access to an important and potentially enormous 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 time to put 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, open travel 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 as expected 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 relief from conditions exhausting the patience of an already exasperated population.

Human-rights activists on the island have said that ''tempers are 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, declining to reveal whether any new anti-government protests were planned in the coming days. However, she hinted they could be organized at a moment's notice.

''All I can say is that opposition groups all over the island are on alert,'' Roque said. ''They are waiting for the call to take to the streets. I see the strong possibility of civil unrest.''

Roque's determination to strike back comes as the government prepares to commemorate the July 26, 1953, assault led by Castro in a failed attempt to seize the Cuban army's Moncada Barracks in the eastern city of Santiago.

The event planted the seeds of a revolution that brought Castro to power in 1959. The anniversary usually is marked by big public events, but this year's planned celebration appears more subdued.

Castro is expected to give a speech, but as of late Monday, the location had not been announced. Other events were planned to take place indoors,

Several opposition leaders said the scaled-back festivities illustrate government fear that widespread discontent could escalate. Human-rights activists in Cuba have said patience is wearing thin as the island continues to struggle with blackouts that can last 12 or more hours a day, spoiling what little food there is in most refrigerators. Several anti-government incidents have been reported, and police presence has been boosted.

Besides the 10 in custody since last week, six others who tried to participate in a separate demonstration July 13 remain jailed on ''public disorder'' charges.

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 20, 2005. They 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. 390—King (IA) No. 46 Amendment—''aye'', Vote No. 391—Kucinich Amendment—''nay'', Vote No. 392—Lantos Amendment—''aye'', Vote No. 393—Rogers (MI) Amendment—''aye'', Vote No. 394—Watson No. 38 Amendment—''aye'', Vote No. 395—Berkley/Crowley Amendment—''aye'', Vote No. 396—Rohrabacher Amendment—''aye'', Vote No. 397—Ros-Lehtinen Amendment—''aye'', Vote No. 398—Democrat Motion to Recommit—''nay'', Vote No. 399—Final Passage of H.R. 2601—''aye'', Vote No. 400—Rolled Suspension Vote on H. Res. 326—''aye''.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO COMMEMORATION OF WOMEN SUFFRAGISTS

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 25, 2005

Mrs. MALONEY. Mr. Speaker, I rise today in support of H.J. Res. 59, to Establish Women's Suffrage Commemoration Day.

With this Commemoration Day, we pay tribute to our foremothers, who worked tirelessly for generations to gain the right to vote.

We acknowledge that the journey to equality is long and difficult, but it is well worth the fight.

And we pledge to keep the struggle for women's rights alive.

The journey towards women's rights in America is as old as our country itself. While John Adams drafted the Constitution at the Continental Congress, his wife counseled, ''Remember the ladies,'' but the Constitution made no mention of women's rights.

So our foremothers fought on.

Elizabeth Cady Stanton declared that all men and women are created equal.

Susan B. Anthony was arrested for casting a ballot and refused to pay the bail.

Between 1917 and 1919, over a thousand women held a vigil outside of the White House, asking, ''How long must women wait for liberty?''

Finally, in 1920, with the 19th Amendment, women won the right to participate in our democratic process.

As we remember the long and arduous battle for women's suffrage, let us also remember the right not yet won. 157 years ago, Elizabeth Cady Stanton called for equal rights for all Americans. It is time for our Constitution to echo that sentiment. There is no better tribute to our brave foremothers than to pass the Equal Rights Amendment.

Only the ERA can prevent women's rights from being rolled back. Afghanistan, Bosnia

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 to the end of 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.

HONORING THOSE WHO SERVED IN KOREA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, 52 years ago today, on July 27, 1953, the United States, North Korea and China signed an armistice that officially ended the three-year Korean War. For too many Florida veterans, the Korean War has become known as "The Forgotten War," sandwiched between World War II and Vietnam. It was through the heroic efforts of our men and women in the Armed Forces, however, that helped maintain democracy and preserved the spirit of freedom for millions on the Korean Peninsula.

While the signing of the treaty may have ended the conflict, it did not end the United States' presence there. Thousands of brave men and women served in the U.S. Armed Forces during the three years of the war, as well as in the 52 years since the war ended. Today, my office is working hand in hand with local veterans groups to identify the thousands of 5th District constituents who served in Korea and deserve recognition.

To date, I have proudly presented more than 175 Korean Defense Service Medals (KDSM) and more than 400 Korean War Service Medals (KWSM) to my veteran constituents. The Department of Defense created these medals to recognize the sacrifices and tenure of those soldiers who served the United States cause on the Korean Peninsula. It has been an honor to present my constituent heroes with these medals and to formally thank their families and them for the commitment showed and time served.

This year's 52nd anniversary of the end of the War is an opportunity for all Americans and all Floridians to reflect on the sacrifices of the thousands of brave soldiers who died defending freedom and opportunity in a far away land. The Korean War saw 33,629 Americans give their lives for our country and for the sake of world peace. In addition to those brave heroes who made the ultimate sacrifice battling communism and oppression, another 103,824 soldiers were wounded, and 8,177 went missing in action.

As too many Florida families sadly know, 577 soldiers from our great state died during the Korean War. They made the ultimate sacrifice in the name of life, liberty and freedom. In addition to those brave heroes, we must not forget the more than 1.8 million Americans soldiers who have served in Korea since 1950. These are the men and women who I have met and presented the KDSM to and who deserve praise for advancing the causes of democracy and freedom.

It was these brave Americans who helped stem the Communist tide in Asia. The battle for Korea helped spare Japan from the threat of Communist invasion and showed the world that the United States and its allies were prepared to resist the Communist advance. This country paid a high price in blood for the defense of Korea, but those who fell contributed much to the security we enjoy today.

Today it is clear that the Americans who fought in Korea helped build a better world for the Korean people. South Korea has flourished spectacularly under U.S. protection while Communist North Korea is in dire straits, unable to even feed its people. Like we see today in the newly liberated countries of Iraq and Afghanistan, when people have the freedom and will to determine their own fate, they will embrace democracy and freedom and the right of self-determination.

As America commemorates the 52nd anniversary of the end of the War, residents of the 5th Congressional District can pay tribute to our veterans and fallen heroes by visiting Korean War Memorials throughout the district, including a brand new memorial that opened this spring in Groveland. Take the time to shake the hand of one of our brave soldiers and say thank you for defending my freedoms and for making the world a safer place. These men and women deserve no less for their sacrifices and commitment to freedom.

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, II 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 Tovillion 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 nofify 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. MDUFMA 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 medicines and pharmaceuticals, MDUFMA 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 when 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 can't 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 finetune 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 this rule. As the Chairman knows, I filed an amendment with the Rules Committee 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 dollars.

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 rebuild. 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 breached company needs to notify the potentially affected consumers, and make them aware that their data security may have been compromised.

After an investigation determines whether or not the breached information will lead to misuse, the customer must be made aware. But with all the mail that Americans are besieged with on a daily basis, we must take steps to insure that consumers can differentiate between what is critical and what is not. For that reason, I feel that all notices should contain a heading that this is an "IMPORTANT DATA BREACH NOTIFICATION."

By ensuring that consumers are aware of what is going on with their data security, we can help prevent millions of dollars a year in consumer costs and countless hours spent by innocent Americans who have been victimized by identity thieves.

Labeling the envelopes will go far towards this goal, and I urge my colleagues to think about this common sense solution to a serious problem that can touch any American at any time.

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, forwardlooking 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 was 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 are African-American, 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 created 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—"nay" 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 American 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 White House Conference on Small Business. 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, a 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, and 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 ranks of the uninsured. But I would like to focus on a critical shortfall we don't often hear much about: Efficiency.

AHPs fail to address the white elephant in the living room. One of the biggest reasons that 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. Lets expand Medicare to all.

HONORING DR. JOSE CELSO BARBOSA

HON. LUIS FORTUÑO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. FORTUÑO. 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 Bayamon, 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 valedictorian 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. Barbosa 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. Barbosa 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 called 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. Barbosa 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. Barbosa'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 shinning 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 Summer 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 by 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, demonstrate 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 Kaploun 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 *Whitley,* 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 Thomaso,'' 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. I wish Tommy and his dear Anita many good years, filled with family, friends and good health. On behalf of my staff, myself and the lovely Deborah, and all my colleagues: Thank you, Tommy.

NASA LAUNCH

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. DELAY. Mr. Speaker, yesterday at 10:39 a.m. on the east coast, five men and two women were launched from Cape Canaveral, Florida, aboard the space shuttle *Discovery*, rocketing into low-earth orbit at 17,000 miles per hour. . . another small step for man, another giant leap for mankind.

Yesterday's successful launch will not simply pick up where America left off two years ago after the *Columbia* disaster.

Yesterday's launch instead opens a new era of space exploration—an era defined by President Bush's ambitious new vision and made possible by the courage and brilliance of the men and women of NASA.

Every resource of our space program will be dedicated to this new mission:

The shuttle has returned to flight and will work to complete the International Space Station now orbiting the earth 250 miles above our heads;

Scientists and astronauts aboard the station will conduct unprecedented research on the long-term exposure of human beings to microgravity and radiation, to test our endurance for prolonged space-travel;

Meanwhile, here on earth, engineers and scientists will design a new crew exploration vehicle that will eventually replace the shuttle and take mankind back to the moon, where more historic discovery and science can be pursued.

All of these endeavors will lead our space program toward our next giant leap—a manned mission to Mars.

The first step of that journey was taken yesterday morning, Mr. Speaker, and once again, NASA's army of geniuses has set us on a clear path toward our destiny.

I spoke with mission Commander Eileen Collins a few weeks back, and she said her crew was ready and eager to return the shuttle to flight.

I also spoke with NASA Administrator Mike Griffin today, to congratulate him and the entire NASA team on a successful launch, as well as to commend him on an incredible first 3-plus months on the job.

The country is lucky to have a man like him in public service heading up the finest space agency in the world.

Yesterday, Americans learned once again that we have the resources and the personnel to do the impossible, Mr. Speaker.

I commend every member of our space community for keeping the *Discovery* crew's appointment with history, and while we wait for their safe return next week, our hopes and prayers are with them all.

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 minions 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 small 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 unions 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 been 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 United States Postal Service is the knit between communities across America and I ask my colleagues to pass this meaningful postal reform legislation for all Americans.

TRIBUTE TO POSTAL EMPLOYEES

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. JOHNSON of Illinois. 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.

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.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to H.R. 525, the Small Business Health Fairness Act. I am deeply concerned that this legislation will jeopardize valuable patient protections for all Americans. While pooling insurance risks may allow employers to strengthen their bargaining power with insurance carriers and share administrative functions, the methods outlined in this bill would threaten the quality of health plans available to small business employees, and the stability of the market for small businesses without access to trade associations.

This legislation establishes association health plans by removing them from state oversight—including the application of state patient protections and solvency standards. For example, my home state of Rhode Island is one of 15 states to mandate health insurance coverage of a colorectal cancer screening test. My constituents value this protection. But under this legislation, my constituents could find themselves enrolled in association health plans that are not required to follow that and other state laws designed to increase access to preventative care and screenings.

In addition, this bill permits association health plans to offer coverage to specific types of employers, allowing plans to seek memberships with better risks and less costly populations. This "cherry picking"—skimming off the healthiest consumers and leaving the sickest patients uninsured—will force premiums even higher for the majority of the market. A recent Congressional Budget Office study estimated that costs would decline for the 20 percent of businesses that join AHPs, but would therefore go up for the remaining 80 percent.

Alternatively, the Democratic substitute would provide small business and their employees access to small employer health pools, without the negative features of H.R. 525, by including a number of protections for businesses and their employees. The substitute amendment provides that participating health insurance companies will remain subject to the requirements of state health insurance laws and stipulates that all participating insurers offer benefits equivalent to or greater than the options offered to Federal employees. There are ways to accomplish the goal of increased access to health insurance that do not threaten that patient protections and state laws that Americans have come to rely on.

Small business employers and their workers do need better access to affordable health care coverage, but this misguided bill is not the way to accomplish that important goal. As we look for innovative ways to provide health care to all, we must not sell small business owners and employees short. We must address the health care crisis, and we must do it in a way that does not exacerbate the existing problems. I urge my colleagues to vote against H.R. 525.

TRIBUTE TO GENERAL WILLIAM L. "SPIDER" NYLAND, U.S.M.C.

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. MILLER of Florida. Mr. Speaker, today I recognize and pay tribute to General William L. "Spider" Nyland, United States Marine Corps, on the occasion of his retirement from active duty. General Nyland has served our great Nation for more than 37 years. The departure of General Nyland marks not only the end of an illustrious career replete with many honors, it also marks the beginning of several initiatives which, by virtue of his strategic vision, dynamic leadership and accomplished diplomatic skills, will ensure that U.S. national strategy is prepared to meet the challenges of the 21st century.

General Nyland was commissioned a second lieutenant in the Marine Corps under the NROTC program upon graduation from the University of New Mexico in 1968. In addition to attaining a M.S. degree from the University of Southern California, his formal military education includes The Basic School (1968), Naval Aviation Flight Training (NFO) (1969), Amphibious Warfare School (1975), Navy Fighter Weapons School (TopGun) (1977), College of Naval Command and Staff, Naval War College (1981), and Air War-College (1988).

After being assigned to VMFA–531, General Nyland was ordered to Vietnam where he flew 122 combat missions with VMFA–314 and VMFA–115. General Nyland's other tours included Instructor RIO, VMFAT–101; Squadron Assistant Operations Officer and Operations Officer, VMFA–115; and Brigade FORSTAT and Electronic Warfare Officer, 1st Marine Brigade. He also served as Operations Officer

and Director of Safety and Standardization, VMF A–212; Aviation Safety Officer and Congressional LiaisonlBudget Officer, Headquarters, U.S. Marine Corps, Washington, D.C.; and Operations Officer, Marine Aircraft Group–24, 1st Marine Amphibious Brigade. He commanded VMFA–232, the Marine Corps' oldest and most decorated fighter squadron, from July 1985 to July 1987.

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, 2nd 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 served next on 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 I 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 Deputy 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 Service Commendation 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 achieved results which will assure the United States' security in this hemisphere and overseas.

General Nyland concludes his illustrious career as the Assistant Commandant of the Marine Corps. In this capacity, he has been the principal advisor to the Commandant of the Marine Corps on all decisions of major consequence. His extensive and diverse background in operational and joint planning, professional military education and training, and budgetary and programmatic policy issues have been given wide credibility by decision makers in the Department of the Navy, the Joint Staff, the Office of the Secretary of Defense, and the United States Congress.

General Nyland has made a lasting contribution to the capabilities of today's Marine Corps and the future shape of tomorrow's Corps. We are grateful for General Nyland's dedication, sense of duty, advice and counsel. 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, Brandy 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 mental health care services, adjusted for inflation, is $630 million below the level in 1996, despite an 11 percent increase in veterans seeking services. During that same 1996–2003 period, overall mental health staffing for the seriously mentally ill declined by 31 percent, and funding for drug and alcohol treatment dropped by 54 percent.

VA mental health professionals have been asked to cut back on the number of sessions offered to veterans on a monthly basis, to cut back on the time allotted for each session, lengthen the time between visits, and drop some patients altogether.

It is unacceptable to treat those who have served our country with such disdain. The President and Congress have found trillions of dollars to provide tax cuts to wealthy individuals and profitable corporations. And Congress and the President will send tens of billions of dollars to foreign governments this year. Clearly there is enough money to adequately provide for our veterans. The President and Congress have simply chosen not to make caring for veterans a priority. That has to change, immediately.

[From the Seattle Times, July 25, 2005]

VA STRAINING TO TREAT POST-TRAUMATIC STRESS

(By Hal Bernton)

ABERDEEN—During counseling, Vietnam veteran Rod Chenoweth always sits in the same place—a blue fabric couch carefully positioned in a corner to give his body the protective cover of a side and rear wall as he talks about his life.

He recounts an argument that left him seething in anger. He talks about an evening flashback to the grenade that wounded him in the leg and killed his 19-year-old buddy.

Chenoweth says the therapy, paid for by the Department of Veterans Affairs VA), has helped pull him back from thoughts of suicide and other self-destructive acts in a life scarred by post-traumatic stress disorder (PTSD)—a war injury that ranks among the most common and the most difficult to heal.

Starting in July, Chenoweth's sessions with Aberdeen therapist Jack Dutro have been reduced from twice to once a month, a cut that comes as thousands of Iraq war veterans join those of previous wars in seeking treatment from the strained VA.

''I 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 while still providing for the veterans of past wars.''

Internal reports show 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 in medical costs—the increased costs of salaries and services—spending in 2003 was actually $630 million below the 1996 level. Meanwhile, the number of veterans seeking those services climbed by 11 percent.

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, adjusted for inflation, dropped by 54 percent nationwide between 1996 and 2003.

''It's 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.

To help manage the crunch, the VA Puget Sound Health Care System earlier this year imposed new restrictions on PTSD therapy for veterans who already have undergone at least six months of treatment.

The VA guidelines now call for no more than once-a-month individual therapy, or twice-a-month group therapy. Those apply to Puget Sound-area clinics and a network of VA-funded private therapists who work around the state.

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.''

Other 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.

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 1979 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 hospitals.

By 1988, the VA estimated that 479,000 vets suffered PTSD symptoms.

For many of these vets, PTSD has meant a lifetime of trouble.

Chenoweth served with the Marines in Vietnam from 1968 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 ended 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. You smell 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 unfolding 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 centralized hospital system as hundreds of new clinics opened up around the country. Congress also loosened eligibility requirements, so that more vets qualified for services, and increased the agency's 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 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,'' Thomas Horvath, a psychiatrist who serves as chief of staff at the agency's Houston medical center, told Congress in 2004.

''In 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, has helped lead the congressional effort to boost funding for VA programs, including mental health.

''I have talked to soldiers who are returning, and a number of them say 'my marriage is much more difficult . . . I am having trouble getting my head back in to work,'" said MURRAY, ''It's the beginning of trouble. And the fallout from this 10, 15, 20 years from now is tremendous.''

The issue of VA funding has been rife with partisan politics recently.

MURRAY, a Democrat, initially was rebuffed by the Republican majority in an effort to gain emergency funding for VA medical services.

VA administrators in June acknowledged a roughly $1 billion budget shortfall, prompting Senate Republicans to do an about-face and work with MURRAY 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 equally divided within the agency, mental health would receive less than $300 million.

This emergency cash would fall short of shoring up the system.

To fully meet the needs of the seriously mentally ill, the VA 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 recount and come to terms with combat experiences.

Some patients may benefit from just a few classes and counseling sessions. Others with chronic PTSD attend sessions for months or years. Some patients do fine in group; 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 consider cutting individual sessions from 50 minutes to 30 minutes, and lengthen the time between visits, according to an internal VA memorandum.

They say they were also asked to consider dropping some patients altogether, after refilling their prescriptions and referring them back to primary-care physicians.

Megan Streight, 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 confident that veterans continue to receive high-quality mental-health care,'' Streight said.

But several Portland VA therapists expressed worries that expanding caseloads combined with a smaller staff threaten the quality of some care. All requested anonymity, concerned that speaking publicly could cost them their jobs.

These therapists say they have been asked to try to complete treatment of new patients in 10 or fewer counseling sessions, even those recently returned from Iraq. Some of these vets arrive at the VA with marriages already in turmoil or broken. Others have isolated themselves at home, and balked at 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 first-step classes of 20 or more that teach coping skills. But her own caseload already runs to several hundred patients, so she has no openings 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-staffed conditions.

''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 my thinking,'' said the therapist. ''You need to give Just good-enough care.' ''

The Puget Sound VA's mental-health programs also have been caught in the region-wide budget crunch, which included a partial hiring freeze that replaces only one worker for every five who leave their jobs.

''We have to make the best use of resources that we can,'' said John Park, Puget Sound VA's director of health-care planning, at an April 30 community meeting on mental health sponsored by U.S. Rep. JIM MCDERMOTT, D-Seattle. ''You can only cut so much of the budget before things get dicey.''

SHARING HOPES AND FEARS

Most PTSD patients in Puget Sound are seen in a specialized program that includes clinics and in-patient care. The program has a national reputation for research and treatment.

McFall, who heads that program, says he was able to snag a special grant that allows him to add several more positions to the 21-person clinic staff in the months ahead.

''I want to say that the sky isn't falling. We can get every Iraq veteran an appointment within a week,'' he said.

But the local VA policy to limit treatment for patients 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 Akers, a Vietnam vet who is an Everett therapist. Akers 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 ending with 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 on a razor'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 day along a 400-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.''

Akers 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,'' the vet 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, is 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 1800's, 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; Riordan 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 satisfaction. 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 wherever they occur. We applaud Republican National Committee Chairman Mehlman for his recent statement to the NAACP apologizing for the ''Republican Southern Strategy''. This speech was given still more credibility when House Judiciary Committee Chairman Sensenbrenner, at that same NAACP Conference, pledged to lead the fight for the reauthorization of the Voting Rights Act. Mehlman's apology appears to perhaps be a sparkplug for the launching of a new Republican offensive to capture more Black votes. A suffering Black community challenges the Party of Lincoln to show us some concrete policy and program deeds to match the apologies. Listen to the plea of the following RAP poem:

APOLOGIES ARE REAL COOL

To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.
Don't rush to play,
Delay thumping your chest,
Push your words
Into the action test:
Jobs right now we need,
Hungry mouths we have to feed,
Lots of ills But can't buy pills.
Prison terms often repeat
Homeless shelters
Are never neat.

Tax cuts we can't eat,
Iraq war dollars wasted
Spell school repair defeat.
Right now!
Take the action test.
Show us the Bush best.
For any apology
We grant a pat
On the Republican back;
From Democrats
The slavery apology
We desperately lack.
To apologize
Is real cool
But don't play
The Black agenda
For no eager fool.

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 costs. 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 insurers 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 uninsurance 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 promise.

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, not 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 should leave regulation of insurance 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: uninsurance, 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 SUFFRAGISTS

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 so 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 devote 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 invaluable 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 financial and technical assistance for improvements in conserving environmental resources on farmland that meets certain soil and water quality criteria standards.

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.

Farmland and Ranchland Protection Program (FRPP), which assists state and local governments to acquire easements to limit conversion of agricultural lands to non-agricultural uses.

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.

Wetlands Reserve Program (WRP), which uses permanent and temporary easements and long-term agreements to protect farmed wetlands.

Wildlife Habitat Incentives Program (WHIP), which provides cost sharing and technical assistance for conservation practices that primarily benefit wildlife.

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 ahupua'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, oceanside lands for hotels and business 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 has meant 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 conservation 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 also the endangered species capital 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 endangered bird species. Our unique and beautiful endangered birds would benefit greatly from restoration and protection of native forests using funding from the Farm Bill programs. These programs would also help to control runoff into streams and coral reefs providing habitat for more unique endemic species.

Finally, Hawaii should receive special consideration out of simple fairness. Hawaii, especially my Second district, is a rural agricultural state. Despite this, in part because of the AGI limitation, Hawaii comes in 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 nationwide.

As a prime example, Hawaii has only ever had 21 acres enrolled in the Conservation Reserve Program, which covers some 39.2 million acres nationwide. The Conservation Reserve Program (CRP) was enacted in 1985 and has grown to become the biggest USDA conservation program, costing just under $2 billion annually in recent years. Under this program, 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 estimated environmental benefits and cost to the government. (I have no doubt that Hawaii would deliver very high environmental benefits, especially when one considers the impact on coral reefs and endangered species.) Successful bidders receive annual rental payments, as well as 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 submitted the ''Hawaii Conservation Reserve Enhancement 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, reduce flow of polluted runoff to 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 agriculture has many unique characteristics due to our isolated location, land use patterns dating from the days of the Kingdom 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 problems that are central to our islands: protecting water quality, preserving endangered 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 participation 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 to honor the parish of St. Louis the King Roman Catholic Church for 50 years of serving the communities of Marquette, Harvey, Lakewood, Hiawatha 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 worship.

On June 30, 1954, Most Reverend Thomas L. Noa D.D. announced the formation of the new parish, St. Louis the King. That day, Rev. David Harris was appointed Administrator. Less than a month later on July 18th Father Harris said his first mass in Chocolay Township Hall beginning one of many ''firsts'' to take place for the young congregation.

That first year, St. Louis the King would rejoice in their first baptism of Eileen Marie Williams, daughter of Albert Williams and Frances Casimir; mourn their first death of Larry Wayne Lajeunesse, son of Mr. and Mrs. Lawrence Lajeunesse; witness their first marriage of Leonard Lemieux, son of Wilfred Lemieux and Lorette Gauthier, and Marion Tousignant, daughter of Alfred and Lucelle Santamore; and celebrate their first Holy Communion of thirteen boys and seven girls.

After a year of memorable firsts, the parish would also celebrate the ground breaking for the new church on July 20th, 1955 on land obtained from Fred Greenleaf, a member of the parish. While the congregation patiently waited for the completion of the new church, St. Louis the King would continue to evolve confirming their first class of fourteen boys, twelve girls and nine adults by Bishop Thomas Noa on November 5th, 1956.

The fruits of their labor and reward of their patience was realized on December 25th, 1959 when members of St. Louis the King heard their first mass in the new church. Solemn High Mass of the Nativity was delivered with a sermon given by Rev. Mr. Allen Mayotte of the parish. He would be ordained six months later becoming the first parish son ordained to the priesthood from the St. Louis the King Parish.

Many improvements have been made to the church through the years, but the most important development has been the learning experience parish members have gained from the past 50 years of growing together. As people who started as individuals and families bound together by their faith, they have now created a larger body of Christ united in their Catholic faith. Mr. Speaker, I ask the United States House of Representatives to join me in congratulating the St. Louis the King Roman Catholic Church on their first 50 years as a parish and in wishing them success in the future as they continue to grow, love, and live their faith.

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 recognize the significance of the Voting Rights Act of 1965. Next week will mark the fortieth anniversary of the passage of that historic act of Congress and there will be commemorations and remembrances of this anniversary throughout the nation, including a march in Atlanta being led by our colleague, the Honorable John Lewis—a civil rights legacy in his own right. While August 6th will signify prominent strides that this country has made in terms of equal rights, the 40th anniversary of the Act's passage will also highlight considerable room for improvement and work to truly guarantee that right to vote to all Americans.

The Act is a reminder of the oppression suffered by the Black community between Reconstruction and the Civil Rights Movement that Blacks could be utterly denied the most basic constitutional right to vote without any recourse 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 government. Its denial effectively deprived citizenship to African-Americans in the Jim Crow era.

Despite the promises of the Fifteenth Amendment, most Black Americans were routinely 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 determined 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 pursing 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, grandfather clauses, and gerrymandering were but a few of the mechanisms used by the state to prevent Black Americans from voting and electing leaders to represent their interests while lynchings, threats and intimidations, and Ku Klux Klan marches asserted the will of bigots to oppose the equal treatment of all Americans.

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. We should allow these individuals who have fulfilled their sentences to vote in federal elections.

Purging of voting records, targeting and intimidation in minority voting sites, the absence of reliable voting machines, circulation of false and misleading information, and long lines in polling sites have all been recent examples of the challenges to creating a fair and justice electoral system. There is clearly more work that needs to be done and I look forward to working with my colleagues in securing legislation that will tackle this challenge.

For today, we can look back on the hopes and promises of a more open society and see the fruits of our labor: A citizenry that participates at all levels, a Congress that reflects and represents the country's diversity, and a country that is opening doors and opportunities for the voices of all Americans. Tomorrow, we should take up the challenges of opening this society even more to the inclusion of all our citizens.

A TRIBUTE TO ST. RITA OF CASCIA HIGH SCHOOL HONORING OF ITS 100TH ANNIVERSARY CELEBRATION

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. LIPINSKI. 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, moderation, 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 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, its trustees 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 plants and animals for a long time now. But 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 specie every 18 days. This is in astonishing contrast to the estimated rate of introduction to Hawaii through natural evolution of one specie 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 endangered species and the 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 specie 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 two-tenths of one percent of the entire Nation's land mass.

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. Since then, 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 assuring that 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 to Hawaii. Thus, Hawaii must be far better protected from pests and diseases moving west to east, but also those that have become established on the U.S. mainland, such as the red imported fire ant and the West Nile virus.

Our tropical climate and lack of a cold season mean that introduction of a disease such as West Nile virus would be especially severe, with devastating effects not only on our endangered birds but on our visitor industry, which is essential to our economy. The entry of biting sand flies, for instance, would greatly damage Hawaii's appeal as a visitor destination and forever alter our quality of life. The introduction into Hawaii of Africanized honeybees would not only represent a human health hazard, but would endanger Hawaii's pure, undiseased (though non-native) bees. (Hawaii's honeybees are also free of Varroa mites, which are common throughout the U.S. and much of the world.)

The current poster child for invasive species in Hawaii is an animal that hitchhiked from Puerto Rico in uninspected tropical plants. The coqui frog now threatens the viability of Hawaii's vital nursery export industry as well as threatened and endangered species in our native ecosystems. Its extremely loud mating call (90 decibels, equivalent to a lawnmower) is now seriously impacting our tourist industry and depressing land values in some areas. And the list goes on.

It's not as if we can't all see the problem, and we have had some nominal measures in place for decades aimed at controlling the introduction of unwanted alien species (at least under some entry conditions). Obviously, however, what amounts largely to an honor system, combined with inadequate resources devoted to inspection and enforcement, is not sufficient to do what must be done.

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, such as 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 very 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 arguably preempt State of Hawaii efforts 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 basically establishes certain federal findings and authority under which Hawaii may institute an incoming quarantine and inspection regime comparable to that existing for the movement of people and cargo from Hawaii to the mainland.

Specifically, the bill starts by expressing the clear sense of Congress that there exists a pressing need for improved and better coordinated control, interdiction, and eradication of invasive species and diseases to prevent their introduction into Hawaii. The bill states that it is the policy of the United States to fund and support coordinated and concerted programs and activities to control, interdict, and prevent the introduction and spread of invasive species into Hawaii, and that no federal agency may authorize, fund, or carry out actions that would cause or promote the introduction or spread of invasive species and disease into Hawaii.

The bill goes on to direct the Secretaries of Agriculture and Interior to impose a quarantine on the State of Hawaii in order to prevent the introduction of invasive species and diseases in Hawaii. The Secretaries are directed to establish a system of post-arrival protocols for all persons, baggage, cargo, containers, packing materials, and other items traveling or being shipped to Hawaii from domestic or foreign locations. The Secretaries are further directed 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 Secretaries, which 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 upon the introduction or movement of a specific invasive specie 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 quarantine, natural resource, conservation, and law enforcement officers and inspectors to enforce Hawaii state and local laws regarding the importation, possession, or introduction 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 mills. With the bountiful natural resources, the new community quickly grew.

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 comer of the Lower Peninsula of Michigan to national and subsequently international commerce,'' according to local historians. The Federal Government was charged with the maintenance of the channel due to the increasing 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 resorters 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 numbers 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 RECOGNITION OF THE CONGRESSIONAL BLACK CAUCUS FOUNDATION INTERNS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. RANGEL. Mr. Speaker, I rise today in acknowledgment and appreciation of the Congressional Black Caucus Foundation interns as they complete their internships with the 43 members of the Congressional Black Caucus.

This summer, the members of the Congressional Black Caucus have enjoyed the benefit of working with college students from all over the country through the Congressional Black Caucus Foundation's Congressional Internship Program. The program has provided the interns with housing and stipends to allow them to work in our offices and gain knowledge and experience in the legislative process, affording them an opportunity that they might not otherwise have been able to take advantage of.

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 nine 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 has produced 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 on to providing wider support for young 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 Jackeline Stewart 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 staff for all of their hard work in the planning and implementation of this summer's CBCF internship program.

I would like to submit to the RECORD the 2005 Congressional Black Caucus Foundation intern roster:

Byron Adams, Representative DAVID SCOTT (GA), Pomona College.

Kara Akins, Representative ROBERT SCOTT (VA), Howard University.

Elizabeth Bakanic, Representative G.K. BUTTERFIELD (NC), University of South Carolina—Columbia.

John Lewis Baker III, Representative BENNIE G. THOMPSON (MS), Tougaloo College.

Joseph Bastian, Representative CORRINE BROWN (FL), Florida A&M University.

Michele Bradley, Representative DIANE WATSON (CA), Spelman College.

Wesley Brunson, Representative KENDRICK MEEK (FL), University of Florida.

Robert Cary, Representative STEPHANIE TUBBS JONES (OH), Columbia University.

La Mont Chappell, Representative JUANITA MILLENDER-MCDONALD (CA), University of New Mexico.

Sharonda Childs, Representative ARTUR DAVIS (AL), Columbia University.

Christopher Cody, Representative HAROLD FORD, JR. (TN), Boston College.

Christopher Coes, Representative SANFORD BISHOP (GA), St. John's University.

Lesley Coleman, Representative BOBBY RUSH (IL), Georgetown University.

Nicholas Colvin, Representative CAROLYN KILPATRICK (MI), University of Michigan.

Lawrence Crockett, Representative ALBERT WYNN (MD), University of Pittsburgh.

Sophia Davis, Representative JULIA CARSON (IN), Miami University.

Kory Davis, Del. DONNA CHRISTENSEN (VI), Johnson C. Smith University.

Phallan Davis, Representative SHEILA JACKSON-LEE (TX), Baylor University.

Jeffrey Delaney, Representative DONALD PAYNE (NJ), Williams College.

Jonathan Fong, Representative AL GREEN (TX), University of Texas-Austin.

Omari French, Representative MAXINE WATERS (CA), University of Miami.

Andre Gray, Representative GREGORY MEEKS (NY), University of Maryland, College Park.

James Guster, Representative CYNTHIA MCKINNEY (GA), Tennessee State University.

Jaira Harrington, Representative DANNY DAVIS (IL), Spelman College.

Nija Leek, Representative CHAKA FATTAH (PA), Bethune-Cookman College.

April Love, Representative EMANUEL CLEAVER (MO), University of Arkansas.

Willie Lyles III, Representative JAMES CLYBURN (SC), Winthrop University.

Whitney Marshall, Representative MELVIN WATT (NC), Wake Forest University.

Ryshelle McCadney, Representative EDOLPHUS TOWNS (NY), Harvard College.

Stephanie McGary, Representative EDDIE BERNICE JOHNSON (TX), Dillard University.

My'Ron McGee, Sen. BARACK OBAMA (IL), University of Illinois at Urbana-Champaign.

Nicholas Paul, Representative MAJOR OWENS (NY), Medgar Evers (CUNY).

MarQuita Petties, Representative BARBARA LEE (CA), UC Berkeley.

Stefanie Rhodes, Representative WILLIAM JEFFERSON (LA), Louisiana State University.

Jennifer Rush, Representative JESSE JACKSON, JR. (IL), University of Illinois at Urbana-Champaign.

Jackeline Stewart, Representative CHARLES RANGEL (NY), American University.

Rachel Tanner, Representative JOHN CONYERS, JR. (MI), University of Michigan.

Nzingha Thompson-Bahaudden, Representative GWEN MOORE (WI), Howard University.

Mimi Tsige, Representative WILLIAM LACY CLAY (MO), St. Charles Community College.

Charisma Williams, Del. ELEANOR HOLMES-NORTON (DC), Temple University.

Isaiah Wilson, Representative JOHN LEWIS (GA), Morehouse College.

Erin Wilson, Representative ALCEE HASTINGS (FL), University of Pennsylvania.

Darryl Yates, Representative ELIJAH CUMMINGS (MD), Morgan State University.

HONORING ROSALIE PLATT, AWARD RECIPIENT ''YES I CAN! INTERNATIONAL AWARD PROGRAM''

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a young constituent of Illinois, Miss Rosalie Platt of Chicago. Rosalie was recently selected as one of the winners in the ''Yes I Can! International Awards Program.''

The Yes I Can! Foundation is a national foundation committed to improving the lives of children and youth with special exceptionalities. Created as a nonprofit organization in June of 1971, the mission of the Yes

I Can! Foundation is to encourage, enhance, and empower children with disabilities, as well as young individuals with special gifts or talents, in the pursuit of their individual goals and dreams.

For the past 31 years, the Foundation's mission has been to design and implement programs that help to improve the quality of life of children with disabilities. Yes I Can!, through the administration of several national programs, has been dedicated to building interdependent communities that value and support these children.

The Foundation recognizes the accomplishments of extraordinary children and youth, widely sharing stories of their successes, and activating a supportive network of strategic partners and activities.

It is my honor to recognize Miss Rosalie Platt for her exceptional contributions to the community and for having great confidence in herself to overcome adversity. In addition, I commend the Yes I Can! Foundation for its commitment to giving those who are challenged the hope and means to overcome those challenges.

CONGRATULATING THE VOLUNTEERS OF THE SOMERVILLE CENTRAL HOOK AND LADDER COMPANY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Somerville Central Hook & Ladder Company, in the Borough of Somerville, New Jersey, a patriotic community that I am proud to represent! On August 27, 2005, the good citizens of Somerville will celebrate the Hook & Ladder Company's One Hundred and Twenty-fifth Anniversary with special festivities.

For one hundred and twenty-five years, the Somerville Central Hook & Ladder Company has been protecting and serving the residents of their community. In celebration of their anniversary, festivities will include an apparatus judging contest during which invited neighboring fire companies will show off their rigs for a trophy prize. They will also introduce a new truck, the newest addition to their company.

The Hook & Ladder Company was created when, in the summer of 1880, several members of the Somerville Engine Company #1 recognized the need for a hook and ladder truck. They resigned from the Engine Company, and with several other volunteers created the Central Hook & Ladder Company. Funds for the purchase of their three-story brick building were raised by using their team, who refer to themselves as ''Hooks,'' and a dump truck to collect garbage in town at the cost of 25¢ a week per customer. The Division Street Building was built in 1902, to house the hand-drawn ''Wonder'' fire truck. In 1909, the company upgraded to a horse-drawn Seagrave truck.

Currently the Central Hook & Ladder Company is led by Deputy Chief Todd Starner and has about 50 members of which about a dozen are second generation or more Central Hook & Ladder families.

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, the living corals and other reef 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 diversity of coral nor the same luster; the fish and other marine life not as plentiful nor diverse; 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 valuable collectors' items for 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 temperate 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 pillage. 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 everyone's business. But beyond that, we can't turn our backs because we are the chief facilitator; ours is the largest market for the products of this stripping of the world's coral reefs.

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 establishes 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 out 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 citizens and their 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 1870s. Ogemaw County, named after local Chippewa Chief Ogemaw-Ke-Ke-To, was home to several family names including Beck, Rose, Zettle, 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 1893 Rose was instrumental in bringing the first commercial railway, 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-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 3:00 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 save all the U.S. mail, Postmaster O.F. Honeywell lost all of his personal belongings aside 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 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 the end 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 slogged their way 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 respectful attention 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 that border the East Bank 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 when it seemed that liberty in their country was about to be eradicated by the Nazi regime, and the world responded to beat back the darkness.

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 the Smiths 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 year because a matter of this importance 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 teeth 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. Law enforcement should spend its time going after the terrorists, not spending its time reviewing the records of innocent people who are visiting their local libraries.

The terrorists who are in a battle against us resent the very rights and openness of society that I believe are what make this country great. We must remain vigilant in defense of the ideals and principles upon which this nation was founded, and the American people must be able to trust their government not to abuse their basic rights.

I urge my colleagues to vote no on this legislation.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

SPEECH OF

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

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:

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 modem 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

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

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 undoubtably 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 Cluster.

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

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mrs. McCARTHY. Mr. Speaker, I rise today to honor an outstanding educational leader, Carl Riccobono.

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 nonprofit, nonpartisan, social and public advocacy organization of the arts and 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, arts advocacy, and runaway production. Headquartered in New York City, The Creative Coalition also has offices in Washington, DC, 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 Valley Stream, New York, over 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

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

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 39th 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 am proud of the hard work and great accomplishments of Luke Hochevar. 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.

I first would like to explain how I would have voted on July 25, 2005 during 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 have also 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 Conferees 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 ''no'' on rollcall votes Nos. 424 and 425, but would have voted ''yea'' on rollcall votes Nos. 426 and 427.

The third series of rollcall votes, Nos. 428, 429, 430, and 431 were on the Pence of Indiana Amendment to 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 rapidly 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 of America 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 Nowhere is fear peddled more shamelessly 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 preying 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 dope 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 reminders 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 what I found after analyzing government databases and peer-reviewed journal articles . . . I found that 784,000 people are dying annually, prematurely, due to modem 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

this country . . . Someone needs to stand up and scream ''FOUL, SOMETHING'S GONE AWRY.'' Somebody needs to stop this madness, and say to the public, ''There's a better option . . . We will no longer accept the status quo.''

Narrator: But the fear machine is well oiled by petrochemical dollars and a near worldwide monopoly in medicine. It works overtime to prevent the truth about dietary supplements from getting out to the public. Governments, particularly in Europe and the United States, seem all-too-eager to comply with the robber barons of healthcare. It has always been so . . . as evidenced by this forty-year-old government film . . . which is but one of many in their arsenals.

FDA Film: 1966: But it's still the same old snake oil . . .

Title appears: ''Health Fraud Racket—Presented by FDA''

Narrator: During the 1990s, however—despite generations of institutional bias—American consumers won critical battles against the FDA and the medical/pharmaceutical establishment.

Joseph BASSETT: In the mid-90s, there were movements to put all supplements on prescription basis and in all of the countries where they've done that it more than doubled the cost and made them not available and it's really a freedom of choice issue . . . it's a consumers issue . . . (1:30) so we were fighting for the right to access for our own use, our family's use, and for our businesses. And fortunately, the health consumer agreed. (1:40) . . . we were actually able to marshal, one day in a period of hours, one million phone calls to their government . . . (5:08) It was really a citizens' uprising.

Narrator: This massive consumer movement for medical freedom was invigorated when the FDA became enveloped in controversy of its' own making. The agency approved a guns drawn raid at the clinic of Dr. Jonathan Wright, and also raided dozens of health food stores in a pre-meditated power-grab. Consumer outrage fueled Hollywood to become immersed in the debate, and actors like James Earl Jones and Sharon Stone became part of a national campaign for medical freedom of choice. When Mel Gibson came aboard, he documented his views in memorable fashion:

Police: ''Freeze''

Mel Gibson: Hey guys . . . guys . . . it's only vitamin C! You know, vitamin C, like in oranges?''

Narrator: The result of the consumer outcry was that DSHEA—the dietary supplement health education act—passed overwhelmingly in 1994. This became the only national law that linked the use of nutrients in dietary supplements to reduced risk of disease. And since DSHEA helped ensure relatively free access to a wide range of dietary supplements for consumers, activists pulled back from the front lines, thinking that their struggles were over. Others like Joe Bassett knew better . . .

Joseph Bassett: We're in a particular industry . . . the health food industry, that's always been under attack. It's never stopped, it still isn't stopping because you have vested interests. In our country you have everybody using vested interests and the one's who are really entrenched use the government.

Gerald Kessler: I believe that DSHEA has always been under attack except for the first few years after DSHEA was passed. And the present attacks are very broad . . . which means worldwide, and some of the attacks are just specific to the Unites States.

Narrator: Now, a bureaucratic shadow called Codex Alimentarius threatens to silence the medical opposition forever, both here and abroad. But Codex began innocuously enough in 1963, as a creation of two arteries of the United Nations: The Food and Agricultural Organization and the World Health Organization. Back then, nearly everyone endorsed their two major goals: to provide nutritious foods for developing nations—and to shape guidelines for dangerous industrial chemicals in the food supply.

Within the past decade, however, Codex Alimentarius has altered its' mission dramatically—many say negatively so—to include a wide swath of products including dietary supplements and genetically modified organisms.

Mr. Scott Tips began serving as a U.S. delegate to Codex in June of 2000. During the first meetings, he did everything he could to communicate with the head of the US Delegation.

Scott Tips, National Health Federation: I, in a flurry of notes, passed comments and suggestions (and the like) to Elizabeth Yetley, who was the American delegate there—it made no impact. In fact, the only impact I had was collar her during a break and basically be very tough with her about a particular clause that she was trying to remove from the final report, that particular sentence or clause basically said that the United States supports the right of consumers to have free access to vitamins and minerals, and she unilaterally yanked that from the final report.

Narrator: This attitude by Ms. Yetley, who is an employee of the U.S. Food and Drug administration, is reflective of codex meetings in general. In an attempt to shine light on those who are unilaterally making public policy private, health freedom advocate John Hammell took a small video camera into two Codex meetings in 1998. These grainy videos are all that remain of the tapes, which mysteriously disappeared.

Yetley: moving right along, agenda No. 5 on vitamins and minerals

Hammell: are you going to strike that second paragraph?

Yetley: well this is a draft positions . . . they're only draft positions. they're not the final version or formal position.

Hammell: you've seen the letter from Ron Paul, then? This was signed by Ron Paul, Congressman Stump and Congressman Cool.

Yetley: we have received alot of mail and we've looked at all of it.

Hammel: so you acknowledge this is the will of congress and of the American people correct?

Yetley: there's a wide range of opinions this one . . .''

Narrator: Despite multiple written requests—and the intervention of a US Congressman—the FDA refused to answer any questions about Codex, dietary supplements—or even labeling—for this documentary. But judging from this rare interview with Michael R. Taylor, then-deputy commissioner for policy at FDA, it is obvious that the agency is unaccustomed to honest intellectual inquiry from the media.

Kevin P. Miller: You stated your concern and the FDA certainly has on L-Tryptophan. What about your concern about something like Prozac, very well documented, 28,000 adverse reports, 1600 suicides associated with that drug.

Michael R. Taylor, deputy commissioner for policy, FDA: Drugs that go thru our very rigorous testing and review process are very well understood chemicals. And drugs are recognized to have both risks and benefits, that's why they go through a rigorous evaluation. And when those products are put out on the market, we have a good scientific understanding of the risks and benefits. And that's laid out in very detailed labeling that physicians then use to decide whether to prescribe those products for their patients. Side effects are part of pharmaceuticals, that's recognized, and that's why we're so careful scientifically. There's just no comparison between that situation and dietary supplements, which have not been subjected to that kind of study . . . have not been evaluated by FDA, and a large part of the problem with these supplements is that we simply don't know about their safety, we don't know about their benefits, yet there being marketed in some cases for serious disease-related purposes. ''THERE'S A BIG DIFFERENCE.''

Kevin P. Miller: Well obviously they would respond by saying that it was the only natural alternative to some of these kinds of drugs, and that's a concern to people who want natural alternatives. And 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: Why don't 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 on 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 has assigned 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 of the 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 at 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 dosages of common vitamins and minerals to ridiculously low levels. They've said so before Congress, in the National Register, and even on their own Web site.

Turner: That system is not a good system and the dietary supplement guideline the vitamin and mineral guideline mimics the ideas of that system and tries to push them onto the international stage for vitamins and minerals. Bad thinking all the way around.

Robert 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 placed their trust in for decades, is not delivering the healthcare they need. They're beginning to appreciate that very often if they

have major diseases, like cancer or heart disease, that the so-called ''solution'' to these diseases is, in fact, killing them.

FDA Film, Health Fraud Racket (1966): Today, all new drugs must be proved safe and effective (Vioxx, Celebrex images) before they can be marketed. In other words, the medicine must be safe—and do what's claimed for it.''

Robert Verkerk, Ph.D: And this is why we see this incredible growth in consumer demand for natural products. And of course, just as the consumer is starting to make decisions about what they want to do in healthcare, the regulators have decided, with a lot of pressure from big industry to say, ''You can't have it—it's reserved for us.''

Narrator: When the WTO—the world trade organization, became a reality in the 1990s, the power of codex was heightened immeasurably. This new worldwide body—devoted solely to the hannonization of trade standards, gave Codex the enforcement capability that had eluded it for decades. Two U.S. Congressmen—a Democrat and a Republican—have a philosophical divide on free trade, but agree completely on the dangers of the WTO and Codex.

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 across borders.

Rep. Peter DeFazio: Since economics in college I was always skeptic of the whole theory of free trade and it always crystallized around the NAFTA and WTO Agreements.

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 Cantor the President's special trade representative and 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. I said, you're right, they just can 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 overrule governments and stick it to consumers.

Rep. Ron Paul: And they'll do under the name of free trade and globalization and pretend that they are on the side of freedom. But actually they are not—they are on the side of regulations and special interests and protection of certain big corporations.

Rep. Peter DeFazio: If there is a higher corporate good to be served by breaking the law and having the FDA work with the CODEX and drag the U.S. into this nightmare then they're all for it and they are doing it.

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: This would be the ultimate 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 don't like the trend.

Narrator: On Capitol Hill, legislators are now debating the merits of yet another trade agreement called CAFTA—the Central American Free Trade Agreement. This latest Trojan Horse was wheeled into Washington as a saviour for a faltering economy. But as consumers in Europe could confirm, it will only lead to more backroom deals—deals that could spell the end of health freedom as we know it.

John Hammell, IAHF: Now, people think that that could never happen here. Probably at one time people in England thought that would never happen there, and yet their government ignored over a million signatures on petitions on this issue saying, ''Sorry guys, we are now a member of the European Union, and we must harmonize to European law.'' If we aren't careful in our hemisphere the same thing will happen as a result of the free trade area of the Americas (FTAA).

Narrator: But the trend towards the WTO, NAFTA, and now CAFTA being used to harmonize laws and regulations to favor pharmaceutical interests, has long been a reality in the European Union. German representatives at Codex began to push the idea of creating ''safe upper limits'' on vitamins and minerals, and this was favored in the UK until Dr. Robert Verkerk and numerous others began orchestrating a precise legal, scientific and public relations strategy to stop it. His organization, the Alliance for Natural Health brought a landmark legal challenge to the EU Food Supplements Directive. In April 2005, The Advocate General in the European Courts declared that the EU Directive should be declared 'invalid' under EU law. In July of 2005, UK and European consumers will discover the fate of this legal battle—and it is anything but a sure win.

Julian Whitaker, MD: What's coming down the line from Codex and from Europe is very disturbing. First, you've got 450 million people over there. Secondly, they have the most restrictive nutrient access of any of the free world. Third, you just had a woman in France arrested . . . and is now undergoing trial . . . for selling 500 mg vitamin C tablets.

Narrator: Between the draconian regulations of the EU Supplement directive and the ominous Codex guidelines which will be voted on in July 2005, there is little doubt that health freedom lies in the balance—in Europe, in America, and throughout the world.

Julian Whitabker, MD: The Whitaker Health Freedom Foundation is supporting this movement in Europe . . . because there's no question (that if) we stop it in Europe, its effect on the United States will be less. And anyone who thinks that Codex or the European Union or the World Trade Organization . . . when it comes to their restrictive policies in Europe is not going to have an effect on the United States is crazy . . . You've got 450 million people over there. They have enormous trade with us. They deal in steel, in textiles, et cetera, and if they are upset with our libertarian policies regarding nutrient supplements, it's going to affect other economic systems. Now, we might have sovereign protection, but good gosh that will fly away at an instance with the stroke of a pen if a trade agreement is challenged . . . What's happening in Europe, just like the trade winds, is coming our way. And no one can argue in a reasonable fashion why that is not going to happen. That is happening.

Narrator: It has been said many times that democracy is the dream of all who are oppressed . . . the hope of those imprisoned by fear or injustice. But the sad truth . . . that which is almost too sad to acknowledge . . . is that the betrayal of democracy began long ago when profit replaced the will of the people . . . and corporate lobbyists became the masters of the universe.

Rep. Peter DeFazio: Alarm bells are going off everywhere. The American people are way ahead of the Congress and figured this out 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 atrophy because of our inaction. Slowly, sovereign 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 say, if we demanded government cooperation—not interference—if we had exercised our freedoms every day, every week—just like the forces of power and money have done . . . If . . .

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.

Robert Verkerk, PhD: There are some who say that this is a battle that cannot be won, we are David—they are the Goliath. But it is too important to sit this out and let multinational corporations and regulatory agencies decide which freedoms we will be able to enjoy. From Africa to Asia to Europe to the Americas we must stand together now for future generations.

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 you deserve if you don't speak up . . . the only way to have good government . . . is if the citizens stand up, and they're not doing it. They have to stand up and be counted . . . and if you put enough effort, the good guys win. It needs to be done . . .

Narrator: Modern medicine has led us to Babylon . . . and a wasteland of expensive 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 and herbs with which we have evolved—culled from thousands of years of collected wisdom—will be swept away—crushed under the myopic weight of corporate greed.

Yet we often forget how much power we actually wield—and that we are the creators of our own place on this planet. Amid the sea of faces, there is an honorable cartel forming . . . forming one for the benefit of mankind.

FDA Film, Health Fraud Racket (1966): You must join the battle by protecting yourself—and your family from health fraud. When you're in trouble that's not always easy. But in the end, being victimized can be far worse. It can mean not only your money, but your life . . .

Credits: Kevin P. Miller, Writer/Producer.

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 commissioning 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 a new assignment as an officer recruiter in 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 precommissioning, 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 actively 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 Home 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 has indeed been a genuine asset both to his office and to the United States military, and I am proud and honored to call him my mend. 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 Lincolnton, Georgia. This brave soldier was assigned to A company, 2nd Battalion, 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 gentlelady 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.

HONORING JOEY ANDERSON FOR HIS RECENT HEROISM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor Joey Anderson of Pea Ridge, Tennessee, for his life-saving actions during a recent trip to Dale Hollow Lake.

On June 17th, two Kentucky youths were visiting the Pleasant Grove Swimming Area. While in the water, one teenager slipped on an unseen ledge and fell into the lake. Her friend went underwater to retrieve her, but he did not resurface.

Joey Anderson quickly responded. In an act showing unwavering courage, he rushed to pull the two drowning victims from underneath the water. After bringing the two youths to the shore, Mr. Anderson administered CPR and revived them. Soon after, emergency workers arrived on the scene and transferred the victims to an area hospital. The youths arrived in serious condition but made a full recovery, thanks to Mr. Anderson's heroic actions.

Joey Anderson's quick thinking and swift action saved the lives of two young people on that day. Middle Tennessee is fortunate to have upstanding citizens like Mr. Anderson. I commend him for his heroism and tremendous service to the community.

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 perseverance in 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 relied on 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 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 unrelenting 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 for women deserve 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 between 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 discuss not only the regime of a fixed peg to the U.S. dollar that China has maintained in recent years, but China's recently 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 its 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 Advisors, and the Congressional Budget Office, all of which have performed economic analyses on currency matters.

IN SUPPORT OF H.R. 358

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong support of H.R. 358, commemorating the 50th anniversary of the desegregation of Little Rock Central High School, in Little Rock, AK. At a time when racial intolerance and ignorance were openly embraced as a way of life, nine courageous African-American youth took a stand, and in doing so, ushered in the civil rights era.

On September 23, 1957, this brave group of students entered the halls of Little Rock Central High School with one goal in mind: to obtain an education. This objective, universal to all parents and children worldwide, was far from easily accomplished. Central High School, a product of the Jim Crowe sentiment, had never seen an African-American student in any of its classrooms. These nine individuals would be the first.

The students stood face-to-face with mobs of irate citizens, all staunchly opposed to integration, and armed National Guardsmen who were ordered by the governor to prevent their entrance. The student body too was unwelcoming, spiteful of the racial invasion into their school. Despite such unconcealed prejudice and cruelty, these nine students persevered and served as an inspiration to us all. One member of this group would later become the first African-American graduate of Little Rock Central High School.

The story of the students who would later be referred to as the ''Little Rock Nine,'' gave Americans hope that we could overcome the racial oppression, struggle and strife that had become endemic in our culture.

All around the Nation, organizations such as the Southern Christian Leadership Conference led by Dr. Martin Luther King, the Student Nonviolent Coordinating Committee led by student activists, and the National Association for the Advancement of Colored People, worked together to create large-scale changes through seemingly small proactive actions.

It would be a disservice for this body to not take a moment to individually recognize each member of this remarkable group. Ernest Green, Elizabeth Eckford, Jefferson Thomas, Dr. Terrence Roberts, Carlotta Walls Lanier, Minnijean Brown Trickey, Gloria Ray Karlmark, Thelma Mothershed-Wair and Melba Pattillo Beals have each equally contributed to the movement that has helped us all be where we are today.

Mr. Speaker, the story of the Little Rock Nine remains one of the most powerful illustrations of triumph over adversity within our modem 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 excellent 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 has a wood 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

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 when their efforts to participate equally with men in the great reform movements of the mid-1800s—including antislavery and temperance—were rebuffed. These early feminists demanded a wide range of changes in women's social, moral, legal, educational, and economic status.

Although women in this country now have the right to vote, we must look back at the efforts of these pioneers and apply their passion to the continued fight for women's equality today.

Since 1920, when the Nineteenth Amendment finally granted women the right to vote, women have made great strides. Women have voted at a slightly higher rate than men in every Presidential election since 1964. What is even more encouraging is that more and more women are seeking elected office. For 20 years after Jeanette Rankin of Montana was elected to Congress in November 1916, the number of women in Federal office following each election never exceeded 9. I am proud to say that that number has dramatically increased since then. In 1980, women comprised 4 percent of the Congress. In 1990, 6 percent. Currently, in the 109th Congress, there are 83 women serving—69 in the House of Representatives and 14 in the Senate—over 15 percent of the Congress.

We have come a long way, but we still have a long way to go. So today, as we honor the women who fought for the rights so many of us today enjoy, we recommit ourselves to the ongoing fight for equality for women and all who are oppressed in this country and around the world.

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 of Florida. 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 underinsured. 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 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 residents 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 efforts, 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.

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 Agreements Act "can be better clarified administratively to provide for improved and more predictable evaluation."

We share the understanding that the Bretton Woods Agreements 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.J. Res. 59, expressing the sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States; 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 rollcall 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 American 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 Arkansan, 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, 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 for Medical Sciences, 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 include the likes 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 of Arkansas and 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 is long overdue 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 prevent them 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 modem 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 wiated 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 a 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, Cook County's undocumented immigrants fill key roles in our economy such as paying taxes (including contributions to Social Security that they cannot receive back), raising families, and contributing to our schools, churches, neighborhoods, and communities; 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 hardworking 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 nations 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 Illnois Congressional Delegation.

Daily Digest

Senate

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. **Pages S9157–58**

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 inter operable 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) **Page S9157**

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. **Pages S9196–97**

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. **Pages S9197–98**

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. **Page S9198**

Jornada Experimental Range Transfer Act: Committee on Agriculture, Nutrition and Forestry was discharged from further considerationof S. 447, to authorize the conveyance of certain Federal land in the State of New Mexico, and the bill was then passed. **Page S9198**

Women's Business Center Grants: Senate passed S. 1517, to permit Women's Business Centers to recompete for sustainability grants. **Pages S9198–99**

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. **Pages S9199–S9200**

National Marina Day: Senate agreed to S. Res. 217, designating August 13, 2005, as "National Marina Day". **Page S9200**

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. **Page S9200**

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: **Page S9200**

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. **Page S9200**

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. **Pages S9200–01**

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: **Page S9202**

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: **Pages S9059–86, S9087–S9115**

Pending:

Frist (for Craig) Amendment No. 1605, to amend the exceptions. **Page S9087**

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. **Pages S9087–S9114**

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. **Pages S9114–15**

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.

Mark S. Schneider, of the District of Columbia, to be Commissioner of Education Statistics for a term expiring June 21, 2009.

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.

Page S9086, S9202

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, Milwaukee, 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. du-Pont 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

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, and International Security concluded a hearing to examine financial management at the Securities and Exchange Commission, focusing on the results of the fiscal year 2004 financial audit of the Commission, after receiving testimony from David M. Walker, Comptroller General of the United States, Government Accountability Office; and James M. McConnell, Executive Director, 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, and McCloy, 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. **Pages H6932–36**

Additional Cosponsors: **Pages H6936–37**

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). **Pages H6691–H6836, H6932**

Speaker: Read a letter from the Speaker wherein he appointed Representative Bonilla to act as speaker pro tempore for today. **Page H6653**

Chaplain: The prayer was offered today by Rev. Lawrence Hargrave, Colgate Rochester Crozer Divinity School in Rochester, New York. **Page H6653**

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 Transitional 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 200 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. 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. 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

Committee on Veterans' Affairs: Subcommittee on Economic Opportunity approved for full Committee action the following bills: H.R. 419, Hire Veterans Act of 2005; and H.R. 3279, Homeless Veterans Reintegration Program Reauthorization Act of 2005.

VETERANS LEGISLATION

Committee on Veterans's 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 Energy and Commerce, Subcommittee on Commerce, Trade, and Consumer Protection, hearing entitled "Data Security: The Discussion Draft of Data Protection Legislation," 10 a.m., 2123 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.

Committee on Homeland Security, Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity, hearing entitled "Improving Management of the Aviation Screening Workforce," 10 a.m., 2128 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 the Judiciary, Subcommittee on Immigration, Border Security and Claims, to mark up H.R. 1219, Security and Fairness Enhancement for America Act of 2005, 2 p.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Minerals, oversight hearing on Sustainable Development Opportunities in Mining Communities, Part II, 10 a.m., 1334 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.

Next Meeting of the SENATE

9:30 a.m., Thursday, July 28

Senate Chamber

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

House Chamber

Program for Thursday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Ackerman, Gary L., N.Y., E1640
Baldwin, Tammy, Wis., E1640
Becerra, Xavier, Calif., E1654
Blackburn, Marsha, Tenn., E1635
Bonner, Jo, Ala., E1652
Brown, Henry E., Jr., S.C., E1631, E1632, E1633, E1634
Brown-Waite, Ginny, Fla., E1633
Case, Ed, Hawaii, E1641, E1643, E1646
DeFazio, Peter A., Ore., E1638
Delahunt, William D., Mass., E1647
DeLay, Tom, Tex., E1636
Dingell, John D., Mich., E1636
Emanuel, Rahm, Ill., E1652, E1652
English, Phil, Pa., E1653, E1654
Fortuño, Luis, Puerto Rico, E1635
Frelinghuysen, Rodney P., N.J., E1643, E1646
Gibbons, Jim, Nev., E1639, E1649
Gordon, Bart, Tenn., E1652
Gutierrez, Luis V., Ill., E1634
Hastings, Alcee L., Fla., E1653, E1654
Holt, Rush D., N.J., E1636
Johnson, Timothy V., Ill., E1637
Kucinich, Dennis J., Ohio, E1649, E1635
Langevin, James R., R.I., E1637
Lipinski, Daniel, Ill., E1643, E1645
McCarthy, Carolyn, N.Y., E1648
Maloney, Carolyn B., N.Y., E1632, E1647
Matsui, Doris O., Calif., E1631
Miller, Jeff, Fla., E1637
Murphy, Tim, Pa., E1635
Musgrave, Marilyn N., Colo., E1648
Nadler, Jerrold, N.Y., E1636
Norwood, Charlie, Ga., E1652
Owens, Major R., N.Y., E1640
Oxley, Michael G., Ohio, E1631
Payne, Donald M., N.J., E1655
Pitts, Joseph R., Pa., E1633
Pryce, Deborah, Ohio, E1634, E1641
Radanovich, George, Calif., E1634
Rangel, Charles B., N.Y., E1631, E1642, E1645
Ross, Mike, Ark., E1655
Sánchez, Linda T., Calif., E1653
Schakowsky, Janice D., Ill., E1654, E1655
Sessions, Pete, Tex., E1633
Shays, Christopher, Conn., E1648
Shuster, Bill, Pa., E1648
Stupak, Bart, Mich., E1642, E1644, E1646
Walden, Greg, Ore., E1649
Woolsey, Lynn C., Calif., E1655

Congressional Record The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at 202–512–1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $252.00 for six months, $503.00 per year, or purchased as follows: less than 200 pages, $10.50; between 200 and 400 pages, $21.00; greater than 400 pages, $31.50, payable in advance; microfiche edition, $146.00 per year, or purchased for $3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to 866–512–1800 (toll free), 202–512–1800 (D.C. area), or fax to 202–512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

POSTMASTER: Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.