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House of Representatives

The House met at 9 a.m.

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

Eternal God, You reveal Yourself in the Sacred Scriptures. In blessing Abram, You said:

''I will bless those who bless you and curse those who curse you. All the communities of the earth shall find blessing in you.''

May this blessing now fall upon this Nation and this Chamber.

Since we tend to rejoice with friends and supporters, yet fear or ignore those who disagree or curse us, may Your Holy Word of blessing assure every one of us that You are one with us always, whether we feel praised or offended, blessed or cursed.

As You chose Abram, You have chosen these Representatives and the communities which have elected them to be Your very own.

Called by You to live into the bright promise of future and willing to be led by faith, may Your people prove worthy always to be blessed and never cursed.

May our attention to Your call and our gratitude for Your direction foster such a deep union in us and with You that we become a blessing to all the communities of the earth both now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. FOLEY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The message also announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 88. Concurrent resolution expressing solidarity with Israel in the fight against terrorism.

The message also announced that pursuant to Public Law 96–114, as amended, the Chair, on behalf of the Majority Leader, announces the appointment of Kevin B. Lefton, of Virginia, to the Congressional Award Board, vice John Falk.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 1-minute speeches at the end of legislative business today.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 305 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 305

Resolved, That it shall be in order at any time on the legislative day of Thursday, December 6, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

(1) The bill (H.R. 3008) to reauthorize the trade adjustment assistance program under the Trade Act of 1974.

(2) The bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

The SPEAKER. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

NOTICE

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Mrs. MYRICK. 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, yesterday the Committee on Rules met and passed this resolution providing that it shall be in order at any time on the legislative day of Thursday, December 6, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

One, the bill, H.R. 3008, to reauthorize the Trade Adjustment Assistance Program under the Trade Act of 1974; and, two, the bill, H.R. 3129, to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes.

Mr. Speaker, our textile workers are hurting and they are hurting bad. In the last year, 60,000 textile workers have lost their jobs, 20,000 of them in North Carolina alone. The industry has done its best through technology to compete, but they have not had a level playing field.

These folks are the best our country has to offer. They are working hard to make ends meet. When they get laid off, they do not come whining to the government, they say maybe we could have done something better or different, but then they go out and get two jobs to make ends meet.

Mr. Speaker, someone has to stick up for these folks because the government does have something to do with these layoffs. Our textile workers are hurting because of low-cost foreign imports, and many of these imports are illegal. Asian countries avoid our quotas by shipping their goods through other countries. That is unacceptable, and it is time for it to stop. For years, our government has turned a blind eye to it.

The Customs authorization bill that we will consider today will help fight these illegal textile transshipments. It provides the Customs Service with $9.5 million for transshipment enforcement operations. These funds must be used to hire 72 new employees who will be stationed both here at home and abroad to enforce our textile trade laws. It is high time for the government to start taking our textile industry seriously.

This bill will not solve all of our problems, and it will not come anywhere close to solving our problems as we see them today, but at least we are getting somewhere and we are making some headway.

Mr. Speaker, the other bill we are going to consider today is a renewal of the Trade Adjustment Assistance program. This program gives job training and education benefits to workers who lose their jobs because of trade. To be honest about it, I have always had mixed feelings about TAA because my friends back home would rather have a job than a handout and being unemployed. We should be working first and foremost to save our American jobs.

But quite frankly, that said, TAA is important to someone who has lost their job. And today's bill improves the program in two important ways. First, it extends job training benefits so they last the same number of weeks as unemployment benefits. What a novel idea. 104 weeks.

Second, the bill forces the Department of Labor to decide TAA requests within 40 days instead of 60 days so that workers can get their benefits more quickly. Is that enough? No way. TAA is not a substitute for a job, but it should be expanded so that secondary workers get help. Secondary workers are the supplier, those folks down the road who do business with the mills, and that has been a big issue in my district, people who have not qualified for help.

Secretary of Labor Elaine Chao has promised us that she will use emergency funds to provide TAA to secondary workers, and we should acknowledge her commitment; but we should put secondary worker coverage in the law so we do not have to rely on the whim of the next Secretary of Labor or the next one or the next one.

Mr. Speaker, let us pass this rule so we can give help to our hurting textile community. We have a long way to go, but now we have folks listening and we are making some progress. This is all a start. Sure, a very small start, but it is a start.

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

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

Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time, and as the gentlewoman has explained, under rule VX of the House rules, bills may be considered on the House floor under suspension of the rules only on Mondays and Tuesdays. Therefore, this resolution is required in order to consider these bills on today's schedule.

The gentlewoman has done an adequate job of explaining why, in the leadership's opinions, these bills must come to the floor today and in this manner.

Mr. Speaker, I respectfully disagree and I will call on our colleagues to oppose adoption of this rule. There is no need to rush to judgment on these bills. I heard my colleague and I agree with her with reference to the matters in TAA dealing with the textile industry, but there are some of us that are concerned about provisions in agricultural measures in regards to people that have lost their jobs. Some of us are interested in the citrus industry in Florida and what we are likely to do here today, and would like to have more discussion regarding same.

There is simply no good reason to handle these bills outside the normal parameters of the way the House should conduct its business. Moreover, when the House does operate this way, it effectively curtails our rights and responsibilities as serious legislators. Members should be very wary of allowing leadership to usurp our rights.

There are Members of this body who have serious concerns with at least one of the bills we are considering today. I am certain that we will hear quite a bit in due time from the distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), on why this is not the appropriate way to handle serious legislation.

As my colleagues know, handling bills under suspension denies Members the opportunity to amend the bill in any way. Moreover, in this case many Members from both the committee of original jurisdiction, the Committee on Ways and Means and the Committee on the Judiciary, have serious concerns about the Customs bill.

We have heard or will hear soon that this particular bill passed committee on a voice vote; therefore, leading Members to believe that it is noncontroversial. It is not. There are legitimate questions with the bill as written, and we are not able to effectively deal with these questions when we give up our rights and allow the bill to be considered under suspension.

We are told that this is the only practical way of dealing with all of the House's business in a timely manner. Also not true. Like my colleagues, I was informed yesterday that the House is not scheduled to meet tomorrow or the following Monday. If we were serious about doing the work of our constituents, we would be here tomorrow, Monday, possibly Saturday and Sunday, and however long it takes in order that we might address the concerns as shared by our good friends and me for those persons that have been displaced by September 11, and are likely to be displaced by the actions that we undertake later today on the Trade Promotion Authority.

Mr. Speaker, there is much work to be done and we ought simply not advocate our responsibility to do. As I mentioned at the outset and for the reasons just explained, I oppose adoption of this rule.

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

□ 0915

Mrs. MYRICK. Mr. Speaker, I have no further requests for time, 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. ISAKSON). The question is on the resolution.

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

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 207, nays 179, not voting 47, as follows:

[Roll No. 476]

YEAS—207

Ackerman
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Bereuter
Biggert
Bilirakis
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pitts
Portman
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf

NAYS—179

Abercrombie
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clement
Condit
Conyers
Costello
Coyne
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dingell
Doggett
Dooley
Edwards
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Green (TX)
Hall (TX)
Hastings (FL)
Hill
Hilliard
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weiner
Woolsey
Wynn

NOT VOTING—47

Barton
Bass
Boehner
Boucher
Brown (SC)
Clay
Clayton
Clyburn
Cramer
Crane
Cubin
Cummings
Delahunt
Doolittle
Ehrlich
Engel
English
Fossella
Gonzalez
Gordon
Gutierrez
Hall (OH)
Herger
Hilleary
Hinchey
Hostettler
Johnson, Sam
Kennedy (RI)
Meehan
Meek (FL)
Morella
Pickering
Platts
Pombo
Quinn
Radanovich
Rothman
Roukema
Sabo
Sanchez
Souder
Waxman
Weldon (PA)
Wexler
Wu
Young (AK)
Young (FL)

□ 0945

Mr. DAVIS of Illinois, Mr. FORD, Mrs. DAVIS of California and Messrs. DAVIS of Florida, WYNN, MARKEY and LIPINSKI changed their vote from ''yea'' to ''nay.''

Mr. HEFLEY and Mr. JEFFERSON changed their vote from ''nay'' to ''yea.''

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. BROWN of South Carolina. Mr. Speaker, on rollcall No. 476 I was unavoidably detained. Had I been present, I would have voted "Yea."

Stated against:

Mr. GONZALEZ. Mr. Speaker, on rollcall No. 476, had I been present, I would have voted "nay."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the first motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

REAUTHORIZING TRADE ADJUSTMENT ASSISTANCE PROGRAM REAUTHORIZATION ACT

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3008) to reauthorize the trade adjustment assistance program under the Trade Act of 1974, as amended.

The Clerk read as follows:

H.R. 3008

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

TITLE I—REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM; RELATED PROVISIONS

SECTION 101. REAUTHORIZATION OF PROGRAM.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking ''October 1, 1998, and ending September 30, 2001,'' each place it appears and inserting ''October 1, 2001, and ending September 30, 2003,''.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''October 1, 1998, and ending September 30, 2001'' and inserting ''October 1, 2001, and ending September 30, 2003,''.

(c) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended in paragraphs (1) and (2)(A) by striking ''September 30, 2001'' and inserting ''September 30, 2003''.

(d) TRAINING LIMITATION UNDER NAFTA PROGRAM.—Section 250(d)(2) of the Trade Act of 1974 (19 U.S.C. 2331(d)(2)) is amended by striking ''October 1, 1998, and ending September 30, 2001'' and inserting ''October 1, 2001, and ending September 30, 2003''.

(e) CLARIFICATION OF CERTAIN REDUCTIONS.—(1) Section 231(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by striking ''any unemployment insurance'' and inserting ''any regular State unemployment insurance''.

(2) Section 233(a)(1) of the Trade Act of 1974 (19 U.S.C. 2293(a)(1)) is amended by striking ''unemployment insurance'' and inserting ''regular State unemployment insurance''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2001.

SEC. 102. AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) INCREASE IN MAXIMUM NUMBER OF WEEKS.—Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting after ''104-week period'' the following: ''(or, in the case

of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period)''; and

(2) in paragraph (3), by striking ''26'' each place it appears and inserting ''52''.

(b) ADDITIONAL WEEKS FOR INDIVIDUALS IN NEED OF REMEDIAL EDUCATION.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

''(g) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an individual receiving trade readjustment allowances pursuant to chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) on or after January 1, 2001.

SEC. 103. EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

Section 223(a) of the Trade Act of 1974 (19 U.S.C. 2273(a)) is amended in the first sentence by striking ''60 days'' and inserting ''40 days''.

SEC. 104. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) DECLARATION OF POLICY.—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974, workers are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor, working independently and in conjunction with the States, should, in accordance with section 225 of the Trade Act of 1974, provide more specific information about benefit allowances, training, and other employment services, and the petition and application procedures (including appropriate filing dates) for such allowances, training, and services, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 to workers who are applying for, or are certified to receive, assistance under that program, including information on all other Federal assistance available to such workers.

TITLE II—ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS SEPARATED FROM EMPLOYMENT DUE TO THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

SEC. 201. ESTABLISHMENT OF PROGRAM.

As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall establish a program to provide adjustment assistance for workers separated from employment due to the terrorist attacks of September 11, 2001, in accordance with the provisions of this title.

SEC. 202. PETITION.

(a) PETITION.—A petition for a certification of eligibility to apply for adjustment assistance under this title may be filed with the Secretary by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) PUBLIC HEARING.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

SEC. 203. CERTIFICATION.

(a) CERTIFICATION.—The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this title if the Secretary determines—

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) that the national impact of the terrorist attacks of September 11, 2001, contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production, as determined by the Secretary.

(b) ADDITIONAL REQUIREMENTS.—The provisions of section 223 of the Trade Act of 1974 shall apply to a determination and issuance of a certification with respect to a group of workers under this title in the same manner and to the same extent as such provisions apply to a determination and issuance of a certification with respect to a group of workers under the program under subchapter A of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

(c) DEFINITION.—For purposes of subsection (a)(3), the term ''contributed importantly'' means a cause which is important but not necessarily more important than any other cause.

SEC. 204. BENEFITS.

Workers covered by a certification issued by the Secretary under section 203 shall be provided, in the same manner and to the same extent as workers covered under a certification under the program under subchapter A of chapter 2 of title II of the Trade Act of 1974, the benefits described in subchapter B of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

SEC. 205. ADMINISTRATION.

The provisions of subchapter C of chapter 2 of title II of the Trade Act of 1974 shall apply to the administration of the program under this title in the same manner and to the same extent as such provisions apply to the administration of the program under subchapter A of chapter 2 of title II of such Act, to the extent determined to be appropriate by the Secretary.

SEC. 206. DEFINITIONS.

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—The term ''terrorist attacks of September 11, 2001'' means the following events that occurred on September 11, 2001:

(A) The attack, using two hijacked commercial aircraft, that was made on the towers of the World Trade Center in New York City.

(B) The attack, using a hijacked commercial aircraft, that was made on the Pentagon.

(C) The hijacking of a commercial aircraft and the subsequent crash of the aircraft in the State of Pennsylvania, in the County of Somerset.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this title $2,000,000,000 for fiscal years 2002 and 2003.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

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

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

Mr. Speaker, I asked for consideration of this bill, as amended, because the underlying bill, the Trade Adjustment Assistance Act, expired on October 1.

In the committee we passed as a placeholder, if you will, a simple extension of the bill, fully intending, once we understood the consequences of September 11 and our ability to make additional adjustments, that we would, as we are doing here today, offer amendments on the floor of the House.

So I would like to address, other than the simple reauthorization, what those amendments are.

The Trade Adjustment Assistance Act says that if one loses one's job primarily related to trade, they are to get assistance and retraining. The problem is the current structure says that they also get income support while they are being retrained. The income support runs out before the training ends, and what we are doing is reconciling the differences between the two.

But beyond that, because of the events on September 11, we believe that it is entirely appropriate to include in this bill, notwithstanding the fact that it is supposed to be tied to trade, an act for the Secretary of Labor to assess those individuals who lost their job through no fault of their own associated with the tragic events on September 11.

That declaration would be virtually identical to the declaration that she is currently empowered to exercise in the area of trade. And to assist her in doing this for the 2-year period of this provision, we provide $1 billion this year and $1 billion next year, a total of $2 billion.

There has been some discussion and, my assumption is, some confusion on the other side of the aisle on materials that have been prepared to describe what this measure does. It does not require an appropriation. The provisions of the Trade Adjustment Act are an entitlement, and when the money is made available, it is available. It is not a requirement that a second hurdle be met. It is not that we could give with one hand and take away with another.

Anyone who supports this measure can have comfort in knowing that it not only makes more sense out of the

assistance given to those who lose their jobs through trade, but for the next 2 years, those who were the unfortunate victims, from an employment point of view, because of September 11 will be able to have this assistance, as well.

In addition to that, since both the trade and the September 11 events are keyed to those who lost their job primarily associated with trade, we have discussed with the administration, and at the appropriate time I would like to place in the RECORD a letter from the Secretary of Labor who agrees that, although they may not have lost their job primarily because of the event, either trade or the tragedy of September 11, that there is additional support for those who secondarily lost their job, and that program is in place and will be used to expand the opportunities to assist people, even though they would not be classified under the primary trigger that is in this bill.

That is the sum and substance of what we have in front of us. It is a significant improvement in the underlying bill, and clearly, we have added this provision over 2 years at $1 billion a year to focus on those who lost their jobs not necessarily through trade, but because of the tragic events of September 11, and we allow the Secretary of Labor to make a decision similar to those who lost their jobs in trade.

The letter from the Secretary of Labor referred to earlier is as follows:

SECRETARY OF LABOR,
Washington, DC.

Hon. WILLIAM M. THOMAS,
Chairman, House Ways and Means Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: As you know, the Trade Adjustment Assistance (TAA) programs authorized income support and training for workers who are able to demonstrate that they lost their jobs because an increase in imports of a ''like or directly competitive product'' contributed importantly to the job loss. I understand that a number of workers, including those in the textile industry, have been unable to obtain certifications under the TAA programs because they are classified as ''secondary workers'' and do not produce a product ''like or directly competitive with'' the important product. As a result, these workers cannot meet the TAA standard.

Nevertheless, I recognize that these secondary workers may have also been adversely affected by a trade agreement. Accordingly, I commit to using my current authority under the Workforce Investment Act to provide national emergency grants that can be used to provide income support, training and other reemployment services to eligible workers in firms that are determined to be secondary workers. Eligible workers would be required to meet the following criteria: (1) the subject firm must be a supplier of products to a TAA certified firm under 19 U.S.C. 2272(a) that is directly affected by imports, and (2) the loss of business with the directly affected firm must have contributed importantly to worker separations at the subject firm.

I recognize that while trade agreements will result in net economic benefits and increased job opportunities, some workers may be adversely affected. It is our responsibility to assure that hardworking Americans have appropriate opportunities to adjust to trade-related changes to the workforce.

Sincerely,

ELAINE L. CHAO.

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

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

Mr. Speaker, this bill came before the Committee on Ways and Means. It did so in a way that did not allow us to add the reforms that are necessary for TAA.

Those reforms are many. Many of them have been recommended by GAO. Many of them are contained in the bill that is now in the Senate Finance Committee; actually, it is out of the Senate Finance Committee. Many of them are in a bill that has been introduced in this House. They relate to everything from the training provisions to wage insurance, to health insurance, to trade assistance for communities.

None of these are covered by this bill, so what we have before us is a reauthorization of TAA, with essentially two additions. One of them would allow the income maintenance to be for the same period as the training provision.

I am in favor of that, Mr. Speaker. Everybody should understand, however, that we are talking about a very small number of people who would be affected. As I understand it, less than 1 percent of those who are dislocated, or about 1 percent, would benefit from this provision.

The second relates to the $2 billion add-on. This was not discussed in the Committee on Ways and Means, and its implications remain unclear. I want to talk a bit about it substantively and raise a few questions.

But for everybody listening, I would say the following: We are going to be taking up a fast track TPA bill. One reason I think this bill is being brought up this morning this way is in case someone would like to use this as a reason to vote for a TPA fast track bill, I urge that there is no justification for using that as a reason.

TAA should have been expanded, and beyond what is being provided this morning. This morning is a quickie effort to move. It is inadequate. It has been called a small step, and that is, at best, what it is.

The gentleman from California (Mr. THOMAS), our chairman, has said that no appropriation is needed. While the language may not be clear, I accept that. Then we have the question of $2 billion. I think the gentleman from California (Mr. THOMAS) said it is $1 billion every year; it is not $2 billion each year. As a result, there is a good question as to how many people this will really cover.

When we look at the number of people who were dislocated before September 11 and add those who were dislocated after September 11, there is no way $1 billion is adequate funding for this program. That is another reason that is a small step at best.

Then there is the issue of the training benefit. As I understand, the TAA program caps the training benefit at $100 million. If that is true, what is going to happen with the way this is handled is that we will not have nearly adequate funds for the training component because that apparently is still capped. Maybe there can be clarification of that.

But as I understand it, the cap of $100 million remains, so essentially we are going to have a disequilibrium between the income provision and the training provision, and we are going to have many, many more people who might be eligible than was true before September 11. There is no provision for health insurance in this program.

Now, I want to say just a word about the issue of coverage, because one of the reforms that we should have been undertaking in this legislation, which is not even touched upon except perhaps indirectly, is who is covered. Will service workers be covered? Presently they are not, and it is not clear that they would be under this provision, because the TAA bill generally does not cover service workers.

The Secretary of Labor has said that secondary workers or, I should say, those who were laid off in a secondary way as a result of September 11, will become eligible under this program, I guess under rules and regulations that are promulgated by the Secretary. That leaves this program with much lack of clarity. There is no direction in this legislation as to how the Secretary of Labor should conduct herself and how she should implement the definition as she now sees it.

So this is a proposal that has come up at the last minute. These changes do not get at many of the basic issues of reform.

In terms of the relation of the training provision to the income provision, that has serious questions as to adequacy. Clearly it will not be adequate in terms of money, and it is not clear who would be covered.

I will leave it for further debate to clarify these issues. I hope that would happen, and then leave it for every Member to make a judgment. It may be that this is a tiny step forward. It should not be used as a rationale for a vote on any other bill.

Let us have a little bit of discussion now as to what is involved in this very small step when we should have been undertaking, as the Senate Finance Committee did a few days ago, some major reform of TAA.

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

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

For what it is worth, for the record, the discussion and the vote in the committee on trade assistance was that it was a voice vote and no amendments were offered. I think we have to understand the context in which that discussion took place.

In addition to that, the gentleman from Michigan laments the fact that there is nothing in this particular provision for people who were laid off prior

to September 11. We have to understand that this particular structure is triggered off of an event, a trade-related job loss, and now we are extending it to the tragedy of September 11 job loss.

□ 1000

Not just any job loss. The President has spoken repeatedly on what he wants on an expanded assistance, including additional weeks, additional money, and additional assistance, not just on unemployment compensation but on health insurance as well. We on this side of the aisle, with the support of leadership, have also talked about expanding that area. That is in fact a different subject matter to be discussed at a different time. And this particular vehicle never was intended nor should it carry a response to unemployment because of a recession or a more generally difficult problem that spreads beyond the trigger of trade-related; and now for 2 years, those people who lost their jobs in association with the tragedy surrounding September 11.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, H.R. 3008 is a bill to reauthorize the trade adjustment assistance programs for 2 years until September 30, 2003. The current authorization expired in September but is continuing subject to the continuing resolution adopted last month and running until November 16, 2001.

It is an economic fact that free trade helps our overall economy. The value of the Uruguay Round Agreements and NAFTA to the U.S. economy was over $65 billion. A recent study at the University of Michigan, right next to the gentleman from Michigan's district, found that a new round could add double again that benefit. The general direction of trade policy should therefore be obvious. We should work assiduously toward free trade.

Nevertheless, it is also a fact that free trade accelerates economic change, which disproportionately hurts some industries and people. It is important then for us to offer a hand to those people and industries. We should help them adjust. This means that workers may need to train for other types of jobs, and during that training and subsequent job search time, they may need more direct assistance than States routinely provide. Similarly, firms need assistance in making strategic adjustments necessary to remain competitive in a global economy. The trade adjustment assistance programs provide this help.

All three TAA programs have proven successful and popular in softening the impact of foreign competition on workers in impacted industries. Workers may receive cash payments, job training, and allowances for job search and relocation expenses. In addition, we have heard concerns from Members about the problems in their districts and the need to increase the direct assistance for workers in order for them to complete their training. Accordingly, we are increasing the direct assistance by an additional 26 weeks and shortening the time that the government has to process petitions.

Mr. Speaker, I encourage my colleagues to support this bill and reauthorize the trade adjustment assistance programs.

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

Mr. MCDERMOTT. Mr. Speaker, whatever of the issues are in the trade adjustment bill, they are not the reason this bill is out here. This bill is out here as a vehicle for putting some things through the House that the chairman and others think will blind the eyes of Members of this House and will offer them some hope that there will be something done for the unemployed workers in this country, and that then they will say, well, since we have done that for the unemployed workers, we can now go ahead and pass fast track.

Now, the Speaker stood right here and promised us that we would do something about the health care and the unemployed workers of this country. When this bill came before the committee, every amendment was nongermane. No one said this is our chance to put unemployment up here. This is our chance to put up health care. It was a narrow little trade adjustment bill. And so now, after it gets out of the committee, they take it up to the Committee on Rules, and the Committee on Rules sticks in a bunch of stuff that nobody has looked at.

There is not anybody who can stand on this floor and say there will be one single unemployed worker in this country whose health care benefits will be protected by this bill. There is a bill that is going over to the Senate in the last days of the session, and we have had a recession in this country since March and we have not done anything, and we are here on the 5th of December, 6th of December, whatever it is, and we still have not had hearings in the House of Representatives on what really needs to be done to the unemployment system.

We have States in this country that do not have enough money for 3 months of unemployment benefits. Did we have a hearing on that? Did we talk about it? No. We have simply stuck $9 billion into a bill that went out of here, called the stimulus package, and said give it to the Governors; they will do whatever is right. Well, at least they figured out now that they want to make it done by the Congress, because Governors would have to call legislators into session to get anything done.

This is a fraud. This is a fraud. It has not had hearings, and you people have messed up the Medicare system in this country because you will not have hearings and figure out how it is going to work. And then suddenly since 1997, we are back every year fixing, fixing, fixing. Here's $2 billion for health; just throw it out there into the air and maybe it will happen to come down in the hands of somebody who is unemployed.

Give it to the Governors. Where is that going to get anybody?

We are all going to vote for this, but nobody should be confused about what this is.

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

Mr. Speaker, I find it ironic that the gentleman says that every amendment they offered was nongermane. Would you not think, if they were serious, they could offer a germane amendment? It was basically to be able to say that they were not able to do what they wanted to do.

Then the next argument is what in the world is trade adjustment assistance, which expired on October 1, doing on the floor the same day we are taking up trade promotion authority? The idea if we do enter into additional negotiations and we have some trade agreements, that someone may lose employment based upon the fact that we have the new trade agreements and we would not have reauthorized the legislation that takes care of those who lose their jobs because of trade.

If the gentleman from Washington (Mr. MCDERMOTT) does not understand why trade adjustment assistance is on the floor on the same day that we consider trade promotion authority, then I just do not know if there is any help for him.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN) who has been a tremendous help in focusing especially those portions of the bill dealing with workers who lost their jobs because of September 11.

Ms. DUNN. Mr. Speaker, I rise in support of H.R. 3008 to reauthorize the trade adjustment assistance program and to temporarily extend new coverage for workers who were impacted by September 11.

TAA is critical for countless workers who have been adversely affected by foreign competition or by terrorist attacks. Many of the people I represent in Washington State will benefit from the job training services and unemployment compensation that are provided by this provision.

In 1998 and 1999, TAA provided $10 million worth of benefits to over 19,000 Boeing workers who were laid off. Many of the 20,000 to 30,000 Boeing workers who have been or will be laid off by the end of next year can now qualify for assistance from the traditional TAA and the new expanded coverage. This bill enhances income support benefits for an additional 26 weeks and it shortens the petition review time from 60 days to 40 days. These are changes that will help reduce paperwork while providing a very necessary safety net to workers.

I want to assure the former speaker that I am very happy this legislation also includes provisions that the gentleman from Washington (Mr. DICKS) and I have added to ensure that States already providing supplemental unemployment coverage beyond the Federal mandates are not penalized.

Under current Federal law, Washington State residents could not use TAA benefits until the State's regular and supplemental unemployment benefits were exhausted. I want to thank the gentleman from California (Chairman THOMAS) and Subcommittee on Trade chairman, the gentleman from Illinois (Mr. CRANE) for working with the gentleman from Washington (Mr. DICKS) and me to give Washington State greater flexibility by enabling the people we represent to qualify for TAA much earlier.

We have got to do all we can, Mr. Speaker, to provide relief to those who are now coping with the very difficult circumstances that displaced workers face. This legislation is a positive step in providing much needed assistance to those who reside in the area. I represent the great Pacific Northwest. My constituents there are very eager to get back to work.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN) who is the author of a comprehensive TAA bill in the House.

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

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

Mr. Speaker, let me say I am going to vote for this bill, but this bill is a day late and a dollar short. This issue has been on the front burner, I think, of the whole trade debate for many, many years. And I think as the chairman and the ranking member know, there have been numerous articles in economic journals and academia about the whole issue of trade adjustment assistance.

This is a program that was created in 1962, and I cannot think of any program that was created in 1962 that somebody in Congress has not talked about the need to reform, and this program certainly needs reform. As best as I can tell from this bill, it does not address the issues of secondary workers in any clear-cut fashion or manner. It does not address the issue of allowing workers who we want to go back into retraining to get a part-time job to help put food on the table, which is really counter to every other public assistance program that we have addressed in the time I have been in this Congress.

It does not have anything to do with providing for better coordination between the Federal Government and State and local government, where a lot of these dollars are done through the work force training partnership programs that we have.

We had a situation a couple of years ago in El Paso, Texas where Hasbro had shut down plants, and they took TAA money and were teaching workers English instead of giving them skills to work in light manufacturing which needed jobs in the El Paso area, which is very much a bilingual area.

This bill, quite frankly, does not do enough. I am one who in the past has supported I think every trade bill that has come up. And every time I have done that, I have said we need to do more to help those who do not win from trade. And I am not alone in this view. A few weeks ago, the Chairman of the Federal Reserve, Alan Greenspan, very much a free trader, made remarks at the International Institute for Economics at their inaugural dinner. In that debate, the chairman said that trade is not necessarily about increasing a net gain of jobs, it is about raising the standard of living, and there are those who lose from comparative advantage even in the United States and that we have to do more to help those workers who fall behind.

This bill, quite frankly, does not do enough. If we were serious about doing this, we would bring up my bill, 3359; or the chairman can do his own bill, put it on the floor, let us debate it. This is a serious program that affects millions of Americans who do not benefit from trade. I believe the general economy can benefit from trade, but there are fellow Americans who do not. We should be doing more about it. This bill does not do it. There is a better way to do it.

I would hope that the House would get back on the right track as it relates to trade and address the issues so all our fellow Americans can benefit from this.

Mr. THOMAS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the sponsor of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation and I am interested that so many of my colleagues are criticizing the process by which it came to the floor or criticizing the fact that it does not do enough.

This is the first time in the history of this country that Congress has offered 2 years of stipend plus training costs to the unemployed. It is the first time. And those benefits are over and above the half-year of unemployment compensation benefits under current law.

The Democrats were in control of this House for 40 years. Never ever did they offer this kind of benefit to people unemployed as a result of foreign competition and, in this case, we are extending these remarkable benefits to those who lost their jobs as a result of a terrorist action as well.

Now, we need to lay our controversies aside and vote this through. This is an exceptional benefit for people who were unemployed as a result of foreign competition or as a result of the attack on September 11.

□ 1015

Let me tell my colleagues what it means. Remember your own people in your own district. Unemployment compensation is a small amount of money, and the unemployed have to keep going out and proving that they are looking for a job. Under TAA we said, look, you have the right for retraining and you will not have to go out and look for a job during this period. We are going to pay their unemployment comp so they have a way to support their family and we are going to pay for their training.

I have had people tell me in my district, as recently as 4 months ago, that, no, they were not looking for a job because under TAA, they had the right to go back to school. I just heard the gentleman from Texas (Mr. BENTSEN) say that they were teaching English as a second language. Is not that an incredibly important thing for a person to be able to have the opportunity to learn if they want real career advancement?

I have had many people, particularly women, tell me it is wonderful that I can go back and get my high school diploma. I can learn English as a second language and I am going to take this training, too, because in the period of time in which I can get training costs and a stipend, I can change my life.

Often people, at least in my district, go from high school into the factories or from very minimal education into the factories, and I will tell my colleagues that for many of them, often their company losing its competitive position, resulting in their having the TAA benefits, has changed their lives. They do not have to take the next job if they can afford to live on unemployment comp, which they often can if the other spouse is working, and go back to school. The joy in their eyes, as they have the chance to learn English, as they have the chance to get a degree, as they can go to the community college, as they can go to a medical technology course to prepare for a career that will offer them a higher salary and a lifestyle they are going to be proud of and happy with.

This is the first time ever in history that the United States Government has offered people 104 weeks of this benefit. I appreciate all the ancillary concerns of my colleagues, but do not let those ancillary concerns and the angers that are afoot in this body between this body and the other body prevent us from putting out there this kind of benefit that is going to help people at a level we have never been willing to help them before.

Let me just add one thing about the September 11th victims, those unemployed as a result of the September 11 attack. It is very hard, to determine in law exactly who is unemployed as a result of foreign competition as to determine who is unemployed as a result of the New York attack. Our Department of Labor has been very generous in their definitions and I believe will continue to be very generous in making people eligible for these benefits.

I have had a lot of experience with this in Connecticut. I represent a town that was all machine tools, bearings. Name the manufacturing facility and it used to be in my hometown, and I have been through this right up till recent years. The Department of Labor has been very open about it. They have been very generous about the definition, and people have benefited enormously, and I believe they will be the same kind of good helpmate in identifying who exactly the September 11 unemployed are. I urge support of this bill.

Mr. LEVIN. Mr. Speaker, could I ask how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Michigan (Mr. LEVIN) has 6 minutes. The gentleman from California (Mr. THOMAS) has 5½ minutes.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the very distinguished gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I would like to thank the gentleman from Michigan (Mr. LEVIN) for yielding me the time and also for the work put into this.

We talk about trade agreements and we talk about the global economy, but every once in a while we need to make sure that we have a rearview mirror and that the rearview mirror is clearly focused to understand people who get left behind.

This program is one of the programs that assists people that get left behind and those relationships that we establish, and that is why it is vitally important to make sure that the resources are there and the tools are there so that people can have another opportunity, can get the training and education necessary.

In our own State of Maine, we faced these challenges of losing jobs in traditional manufacturing industries and this year has been no exception. There were 19 different applications for trade adjustment assistance awaiting review for Maine companies. This program has helped over 1,000 workers in Maine every year to retrain and restart their lives. It allows the workers to adapt to the 21st century economy while extending a crucial helping hand during troubled times.

I do wish that the bill had gone further in expanding this valuable program. The TAA law should be changed to be able to cover all forms of production shifts to other countries. The funding for the program needed to be more because it usually runs out of money for its training budget. This past year the Maine Department of Labor had to apply for $1.2 million in national emergency grants from the U.S. Department of Labor to cover costs. So we need to be able to look at expanding funding to ensure this.

However, although this bill is not perfect, the program is important to workers in Maine and around the country, and I urge my colleagues to vote for its reauthorization.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), who has experience in this area both within and without Congress.

Mr. HOUGHTON. Mr. Speaker, trade is a tricky business. What we are trying to do is go beyond the bounds of the United States and move into other areas, and this is very, very important. We are going to be talking about this later, because there are people who want our goods and services, but in the process, it is an uneven balancing act and people either in government or in business management can make decisions as far as going abroad. Yet at the same time there are people down in the system who are doing their best to be able to work diligently, loyally, who have no control over that.

Sometimes the squeeze comes because of the imbalance in this process and they need protection, and this is what the bill is all about.

I think it makes a great deal of sense. I think the conditions are fine. Maybe we will be able to enrich it later on, but it is a good start, and I heartily endorse the TAA bill H.R. 3008.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from South Carolina (Mr. SPRATT).

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

Mr. SPRATT. Mr. Speaker, I come from textile country, and I have seen the effects of imports upon jobs in the area where I live, $77 billion trade deficit in textiles and apparel last year. Over the last 10 years, we have lost about a million jobs in textile and apparel, and I can tell my colleagues, from my own district, my own State, from the Carolinas to the southeast, only a minute percentage of these people who have lost their jobs have been able to get trade adjustment assistance benefits.

That is a hard truth. We have heard these benefits extolled here on the floor, but in truth, very, very few people qualify for them.

It is shameful how little we do for the people we know are going to be hurt by the trade policies that we adopt, and anybody who thinks that this is going to make it easier to vote for fast track, easier to vote for trade promotion authority, they better think again, because this bill is a pittance. This bill will do very little. It does nothing to expand the eligibility of these people we know are going to be direct hits. They are not collateral casualties in this war. They are direct hits.

We know when we lower the tariffs, get rid of the quotas, that textiles are going to come flooding into our markets by an even greater volume and quantity, and we know exactly who is going to be hurt and who is going to be hit. No question about it, they are direct hits.

We say that we have got these benefits for them so they can have this marvelous change of life, this mid-course adjustment, but in truth, they have still got a house payment to make. They have still got car payments to make, and I know from talking to countless textile workers in my own district, very, very few of them, if they have it, can afford to exercise their COBRA benefits out of the meager unemployment income that they receive.

This is a mirage. Worse still, it is deceitful. It holds out that we are doing something significant when there is an agenda full of changes recommended to TAA that should start with the Department of Labor, which is woefully, woefully understaffed to handle the volume of applications under TAA. This is a pittance compared to what needs to be done, and we should be ashamed that we are bringing this up in the name of helping people who are going to be hurt by trade.

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

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, is it the gentleman from Michigan's understanding that the intention of this bill is to make benefits available for Boeing workers who have been laid off after September 11 and for 100,000 airline employees who have been laid off since September 11?

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

Mr. MCDERMOTT. I yield to the gentleman from Michigan.

Mr. LEVIN. It is not easy to read this bill, but I think so.

Mr. MCDERMOTT. Mr. Speaker, the gentleman from Michigan thinks so? So I have got to go home to my district and tell my people they might be covered by this, it is not clear?

Mr. LEVIN. It is not clear, and indeed, there will have to be regulations issued by the Department of Labor in terms of those who are affected secondarily.

Mr. MCDERMOTT. Mr. Speaker, I think that is why this bill is really a fraud. It seems to do something for people but it is not clear. It is subject to interpretation by the Department of Labor.

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

In the earlier reincarnation of the gentleman from Washington's statement on the floor, he indicated that he was going to be supporting the bill. I do not know what happened in the intervening moments, but apparently he is now supporting a fraud.

The question that was offered to the gentleman from Michigan (Mr. LEVIN), I believe, should have been answered this way. Do the Boeing employees and do the airline employees believe that the events of September 11, which included the government mandatory grounding of aircraft, the significant

reduction in income to airlines, and their subsequent requirement to cancel airplane contracts, primarily tie to the September 11 event? If the gentleman from Michigan (Mr. LEVIN) is so bemuddled about trying to read this bill, that he could not answer yes to that question, then his answer was a political one and not an honest one.

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

Mr. THOMAS. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, the distinguished gentleman from Washington (Mr. MCDERMOTT), is a former Illinoisan and from the Chicago area, and I know that Boeing has moved to Chicago, and we are not laying folks off in Chicago, and I just wanted to find out if the gentleman from Washington (Mr. MCDERMOTT) was in any way involved in trying to get them to move to God's country.

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

Mr. LEVIN. Mr. Speaker, how much time do I have, 1½ minutes?

The SPEAKER pro tempore. The gentleman from Michigan has 1½ minutes.

Mr. LEVIN. Mr. Speaker, I yield myself as much time as I may consume.

Let me just read what the standard is so that instead of the gentleman from California (Mr. THOMAS), as he sometimes does question motives, let us talk about what is in the law. It says for whom in, ''The national impact of the terrorist attacks on September 11 contributed importantly to their job loss.''

If anybody thinks that is a very clear standard, I ask them to think twice. It is better than nothing, but do not parade it for what it is not. I want to close by pointing out that in order for persons to be eligible for this, they must be eligible for unemployment insurance first. Less than 40 percent, and maybe it is only about a third of the workers in this country qualify for unemployment compensation in their State, and also, less than a fifth of low income workers qualify, including many in the services industry.

So what this has is not only a small amount of money for what is truly needed, not only does it have no other reforms, nothing for health care, but it is not going to cover a huge number of people who were affected by the September 11 tragedy, who clearly were affected. I just want everybody to understand what this bill really is and make no pretense that it is a reason to vote for any other bill.

□ 1030

Mr. THOMAS. How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from California has 3 minutes remaining.

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

The name of this legislation is trade adjustment assistance. It is not undifferentiated unemployment compensation. There is another whole set of statutes, procedures, and funding to deal with unemployment in general. This measure's title is Trade Adjustment Assistance.

What we have done is to expand this bill to cover those individuals who, through no fault of their own, in a way in which they can show a nexus, and the gentleman from Michigan is entirely correct, that the loss of their job was a result of a contribution importantly tied to the September 11 event.

The gentleman then went on to complain about a number of other factors in which people are not eligible for unemployment in general. Not that it is tied to trade or the September 11 event, but that he is concerned about, in general, the failure of the unemployment insurance program to reach out to more people. We are going to have ample opportunity to deal with that in a larger context. The President has spoken to that issue. We have voted on that issue in this body in the stimulus package, and we have said we are willing to go far beyond what had been offered previously. That is not what is in front of us.

And I will repeat my understanding of the question of the gentleman from Washington. Because of the way in which the tragedy on September 11 occurred, the government ordered all planes grounded. The airlines suffered significant financial losses that resulted in the release of employees that otherwise would not have been released, and it resulted in the cancellation of airplane purchase contracts that otherwise would not have occurred. What we are expected to believe is that the Secretary of Labor would have great difficulty in associating those two events, the two events that the gentleman from Washington is concerned would not be covered by this legislation; that the Secretary of Labor would say neither of those qualify under this legislation.

I will tell the gentleman from Washington, I believe they do, and I will do everything in my power to make sure that the Secretary of labor says that those who lost their jobs because airplane contracts were canceled by airlines who had a shrinking in revenue because the government said they could not fly, and they released employees because of that same circumstance, certainly would be able to say that the loss of their jobs and the events associated with September 11 contributed importantly to the loss of those jobs. Those hurdles are not difficult ones to overcome.

Beyond that, we need to continue to work together, quit haranguing, and make sure that people who are currently unemployed, and who will become unemployed because the House has acted and the Senate has not on the larger questions, need to be preserved for another day.

On this measure, I urge my colleagues to vote ''aye.'' It is better than it has ever been before.

Mr. RYAN of Wisconsin. Mr. Speaker, today I would like to rise in support of the reauthorization of the Trade Adjustment Assistance program.

Over the last 5 years, even as the economy in the rest of the country was booming, the manufacturing economy in Southeastern Wisconsin has been declining. While there are many companies in my district that could not survive without international trade, some companies have moved their operations outside U.S. borders. This is unfortunate for both the workers and the economy of Southeastern Wisconsin. TAA offers a way to buffer the transition.

The relocation of Southeastern Wisconsin companies outside the U.S. border has been constant over the past decade. In my 3-year tenure, I have seen the MacWhyte Co. of Kenosha shift production to Canada, Outboard Marine Corp. of Beloit go bankrupt, and Acme Die Casting of Racine shut down because of foreign competition. These companies, and several others over the years have applied for and have been granted either TAA and NAFTA–TAA, or both, for their workers. While TAA is not the same as a stable job, it gives workers a chance to access valuable job training while receiving expanded state unemployment insurance or an $800 relocation expense reimbursement if the worker decides his skills are valuable at another company elsewhere.

TAA for workers guarantees extended unemployment benefits and job training to those left jobless when imported goods have contributed significantly to their job loss. A similar program exists for workers affected by the North American Free Trade Agreement (NAFTA) when American firms relocate production to Mexico or Canada. H.R. 3008 reauthorizes TAA and NAFTA–TAA through FY2003. This bill extends direct benefits for an 26 additional weeks over the previous 78 weeks to total 104 weeks of both training and direct benefits. I supported this bill when it passed the Ways and Means Committee and support it today. I also voted in favor of an appropriation of $416 million in H.R. 3061, the FY2002 Labor, Health and Human Services and Education Appropriations bill.

Mr. Speaker, reauthorization of TAA and NAFTA–TAA is in the interest of the United States and, especially to those workers in Southeastern Wisconsin that have lost their livelihood as a result of international pressures. I am proud to be a co-sponsor and strong supporter of this bill.

Mr. BENTSEN. Mr. Speaker, I rise in support of this bill, which provides a two-year reauthorization of the Trade Adjustment Assistance program. While I am pleased that Ways and Means Committee worked to increase direct benefits to trade displaced workers and new benefit coverage to workers affected by the September 11th terrorist attacks, I am disappointed that the broader reauthorization provisions contained in a bill I introduced were not included in this legislation.

With my colleague ANNA ESHOO, I was pleased to offer H.R. 3359, which is the House version of legislation offered by Senators BINGAMAN, BAUCUS and DASCHLE as S. 1209, and was recently reported out of the Senate Finance Committee. H.R. 3359 would enact real reform and modification of the existing TAA program, which has been in existence since 1962 to help workers and communities address the difficulties presented by international trade. I wish the House Leadership

had seen fit to consider this critical legislation, and I reman hopeful that many provisions of this bill will be adopted during conference consideration following the expected adoption of S. 1209.

Today we are here to consider the need for increased attention to the plight of workers affected by U.S. supported international trade agreements. As someone who has supported pro-trade measures in the past, I believe the negative effects on workers and communities has been often overlooked by proponents in the trade debate. Regardless of how each Member of Congress feels about globalization and free trade, I believe there is general agreement that the existing federal program to assist workers displaced by trade is outdated and in serious need of reform.

The current TAA program contains benefits criteria that are too restrictive; exclude too many workers; are inconsistent and contain confusing regulations—including a separate program under NAFTA; provide inadequate funding for job training, and lacks health care coverage.

My bill would improve on the current TAA in a number of ways, including the establishment of allowance, training, relocation and support service assistance to workers affected by shifts in production. The measures would also harmonize existing TAA programs to provide more effective and efficient results for individuals and communities. The legislation would facilitate on-the-job training and faster reemployment for older workers by providing up to two years in wage insurance for qualified workers over age 50. Additionally, income maintenance would be increased from 52 to 78 weeks, and funds available for training would be increased to ensure that workers taking part-time jobs would not lose training benefits. H.R. 3359 would also provide a tax credit for 50 percent of COBRA payments, increase assistance for job relocation and link TAA recipients to child care and health care benefits under existing programs. To help communities respond to job losses more quickly and efficiently, this bill would encourage greater cooperation between federal, state, regional, and local agencies that deal with individuals receiving trade adjustment assistance.

Mr. Speaker, as we move toward consideration of the Trade Promotion Authority later today, I believe we must not discount the effect of trade to the American workers. I believe we can improve the trade adjustment assistance programs in a fundamental and beneficial way. Congress should pass legislation that will make these improvements in the trade adjustment assistance program, and I ask my colleagues to support this bill.

Mr. DICKS. Mr. speaker, I strongly support H.R. 3008, the reauthorization of the Trade Adjustment Act, which is a vital program to help those workers who have lost their jobs due to increased imports. TAA gives these displaced workers the best chance for new employment opportunities. The program provides retraining, education, job search assistance, and income support to get people through the trials of unemployment and toward a new job.

I want to commend Chairman THOMAS and Ranking Member RANGEL for including in this bill additional benefits to reflect the economic consequences of September 11. These workers, including many in Washington State, suddenly were left jobless due to the terrorist attacks and I am glad that this bill will help them. However, we need to provide even more benefits for all jobless Americans whatever the cause of their unemployment.

And finally, my deepest gratitude goes to Chairman THOMAS and Ranking Member RANGEL for including a provision in H.R. 3008 to correct a problem that penalizes Washington and other States with supplemental unemployment programs for displaced workers who are being retrained. Congresswoman DUNN and myself brought to their attention the fact that TAA benefits would be delayed in States like Washington that have taken the forward-looking step of creating their own supplemental retraining programs. It makes no sense to put Washington and these other States at a disadvantage because they have decided to provide their displaced workers with additional help. I am grateful that Chairman THOMAS and Ranking Member RANGEL understood the unfairness of this situation and agreed to correct it.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3008, as amended.

The question was taken.

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

Mr. THOMAS. 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.

CUSTOMS BORDER SECURITY ACT OF 2001

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3129) to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3129

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 ''Customs Border Security Act of 2001''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—UNITED STATES CUSTOMS SERVICE
Subtitle A—Drug Enforcement and Other Noncommercial and Commercial Operations
Sec. 101. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
Sec. 102. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
Sec. 103. Compliance with performance plan requirements.
Subtitle B—Child Cyber-Smuggling Center of the Customs Service
Sec. 111. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.
Subtitle C—Miscellaneous Provisions
Sec. 121. Additional Customs Service officers for United States-Canada border.
Sec. 122. Study and report relating to personnel practices of the Customs Service.
Sec. 123. Study and report relating to accounting and auditing procedures of the Customs Service.
Sec. 124. Establishment and implementation of cost accounting system; reports.
Sec. 125. Study and report relating to timeliness of prospective rulings.
Sec. 126. Study and report relating to Customs user fees.
Sec. 127. Fees for Customs inspections at express courier facilities.
Subtitle D—Antiterrorism Provisions
Sec. 141. Immunity for United States officials that act in good faith.
Sec. 142. Emergency adjustments to offices, ports of entry, or staffing of the Customs Service.
Sec. 143. Mandatory advanced electronic information for cargo and passengers.
Sec. 144. Border search authority for certain contraband in outbound mail.
Sec. 145. Authorization of appropriations for reestablishment of Customs operations in New York City.
Subtitle E—Textile Transshipment Provisions
Sec. 151. GAO audit of textile transshipment monitoring by Customs Service.
Sec. 152. Authorization of appropriations for textile transshipment enforcement operations.
Sec. 153. Implementation of the African Growth and Opportunity Act.
TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
Sec. 201. Authorization of appropriations.
TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION
Sec. 301. Authorization of appropriations.
TITLE IV—OTHER TRADE PROVISIONS
Sec. 401. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.
Sec. 402. Regulatory audit procedures.

TITLE I—UNITED STATES CUSTOMS SERVICE

Subtitle A—Drug Enforcement and Other Noncommercial and Commercial Operations

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) in subparagraph (A) to read as follows: ''(A) $899,121,000 for fiscal year 2002.''; and

(2) in subparagraph (B) to read as follows:

''(B) $922,405,000 for fiscal year 2003.''.

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) in clause (i) to read as follows:

''(i) $1,606,068,000 for fiscal year 2002.''; and

(B) in clause (ii) to read as follows:

''(ii) $1,647,662,000 for fiscal year 2003.''.

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2002 and 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and not later than each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act.

(c) AIR AND MARINE INTERDICTION.—Section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) is amended—

(1) in subparagraph (A) to read as follows:

''(A) $181,860,000 for fiscal year 2002.''; and

(2) in subparagraph (B) to read as follows:

''(B) $186,570,000 for fiscal year 2003.''.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(a)) is amended by adding at the end the following:

''(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.

SEC. 102. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,200,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $13,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2002 and 2003 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals, performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to section 102.

Subtitle B—Child Cyber-Smuggling Center of the Customs Service

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2002 to carry out the program to prevent child pornography/child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service.

(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.

Subtitle C—Miscellaneous Provisions

SEC. 121. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.

Of the amount made available for fiscal year 2002 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C.

2075(b)), as amended by section 101 of this Act, $28,300,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 122. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

(a) STUDY.—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the effect and impact of the collective bargaining process on drug interdiction efforts of the Customs Service and a comparison of duty rotation policies of the Customs Service and other Federal agencies that employ similarly-situated personnel.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 123. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

(a) STUDY.—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken to comply with provisions of law that protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code; and

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A).

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 124. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) REPORTS.—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

SEC. 125. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

(c) DEFINITION.—In this section, the term ''prospective ruling'' means a ruling that is requested by an importer on goods that are proposed to be imported into the United States and that relates to the proper classification, valuation, or marking of such goods.

SEC. 126. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

SEC. 127. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES.

(a) CUSTOMS USER FEES.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively;

(B) by inserting after paragraph (6) the following new paragraph:

''(7) For the processing of merchandise that is informally entered or released at a centralized hub facility or an express consignment carrier facility (other than shipments valued at $200 or less, which shall not be subject to any fee under this subsection), $5.50''; and

(C) in the last sentence of paragraph (11), as so redesignated, by striking ''subparagraphs (A), (B), and (C),'' and inserting ''subparagraphs (A) and (B), see paragraph (7), and at facilities referred to in subparagraph (C),''.

(2) Subsection (b) is amended—

(A) in paragraph (5), by striking ''(8)'' and inserting ''(9)'';

(B) in paragraph (6)—

(i) by striking ''(a)(8)'' and inserting ''(a)(9)''; and

(ii) by striking ''(8)'' and inserting ''(9)'';

(C) in paragraph (8)—

(i) in subparagraph (A)(i), by striking ''(a)(9)'' and inserting ''(a)(10)''; and

(ii) in subparagraphs (B), (C), (D), and (E), by striking ''(9) or (10)'' each place it appears and inserting ''(10) or (11)''; and

(D) in paragraph (9)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking ''a centralized hub facility, an express consignment carrier facility, or'';

(ii) by striking clause (ii) of subparagraph (A);

(iii) in clause (i) of subparagraph (A)—

(I) by striking—

''(i) In the case of a small airport or other facility—'';

(II) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and aligning the text of those clauses with clauses (i) and (ii) of paragraph (8)(E); and

(III) in clause (ii), as so redesignated, by striking ''(a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I)'' and inserting ''(a)(11) for such fiscal year, in an amount equal to the reimbursement under clause (i)''; and

(iv) by amending subparagraph (B) to read as follows:

''(B) For purposes of this paragraph, the term 'small airport or other facility' means any airport or facility to which section 236 of the Trade and Tariff Act of 1984 applies, if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year.''; and

(E) in paragraphs (10) and (11), by striking ''(9) or (10)'' each place it appears and inserting ''(10) or (11)''.

(3) Subsection (c) is amended by adding at the end the following:

''(6) The terms 'centralized hub facility' and 'express consignment carrier facility' mean a separate or shared specialized facility approved by a port director of the Customs Service for examination and release of imported merchandise carried by an express consignment carrier. Entry filing is also permitted at a centralized hub facility.''.

(4) Subsection (d)(4) is amended by striking ''(a)(7)'' each place it appears and inserting ''(a)(8)''.

(5) Subsection (e) is amended by adding at the end the following:

''(7) Notwithstanding section 451 of the Tariff Act of 1930 or any other provision of law, all services rendered by the United States Customs Service at a centralized hub facility or an express consignment carrier facility relating to the inspection or release of merchandise from such facility, either inbound or upon arrival from another country or outbound when departing to another country (including, but not limited to, normal and overtime services) shall be adequately provided when needed, at no cost to such facility (other than the fees imposed under subsection (a) of this section).''.

(6) Subsection (f)(3)(A) is amended—

(A) in the matter preceding clause (i), by striking ''(9) or (10)'' and inserting ''(10) or (11)'';

(B) in clause (i)—

(i) in subclause (IV), by striking ''and'' at the end;

(ii) in subclause (V), by adding ''and'' after ''1993,''; and

(iii) by inserting after subclause (V) the following:

''(VI) providing the services described in subsection (e)(7) at centralized hub facilities and express consignment carrier facilities,''; and

(C) in clause (ii), by striking ''(8)'' each place it appears and inserting ''(9)''.

(7) Subsection (f)(6) is amended by striking ''(9) and (10)'' and inserting ''(10) and (11)''.

(b) ADDITIONAL CONFORMING AMENDMENT.—Section 301(b)(2)(B) of the Customs Procedural Reform and Simplification Act of 1978

(19 U.S.C. 2075(b)(2)(B)) is amended by striking ''(9) and (10)'' and inserting ''(10) and (11)''.

Subtitle D—Antiterrorism Provisions

SEC. 141. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

(a) IMMUNITY.—Section 3061 of the Revised Statutes (19 U.S.C. 482) is amended—

(1) by striking ''Any of the officers'' and inserting ''(a) Any of the officers''; and

(2) by adding at the end the following:

''(b) Any officer or employee of the United States conducting a search of a person pursuant to subsection (a) shall not be held liable for any civil damages as a result of such search if the officer or employee performed the search in good faith.''.

(b) REQUIREMENT TO POST POLICY AND PROCEDURES FOR SEARCHES OF PASSENGERS.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the Customs Service shall ensure that at each Customs border facility appropriate notice is posted that provides a summary of the policy and procedures of the Customs Service for searching passengers, including a statement of the policy relating to the prohibition on the conduct of profiling of passengers based on gender, race, color, religion, or ethnic background.

SEC. 142. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking ''Whenever the President'' and inserting ''(a) Whenever the President''; and

(2) by adding at the end the following:

''(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

''(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

''(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

''(C) Take any other action that may be necessary to directly respond to the national emergency or specific threat.

''(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

''(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).''.

SEC. 143. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) in the first sentence, by striking ''Any manifest'' and inserting ''(1) Any manifest''; and

(B) by adding at the end the following:

''(2) In addition to any other requirement under this section, for each land, air, or vessel carrier required to make entry under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission cargo manifest information in advance of such entry in such manner, time, and form as prescribed under regulations by the Secretary. The Secretary may exclude any class of land, air, or vessel carrier for which the Secretary concludes the requirements of this subparagraph are not necessary.''.

(2) CONFORMING AMENDMENTS.—Subparagraphs (A) and (C) of section 431(d)(1) of such Act are each amended by inserting before the semicolon ''or subsection (b)(2)''.

(b) PASSENGER INFORMATION.—Part II of title IV of the Tariff Act of 1930 (19 U.S.C. 1431 et seq.) is amended by inserting after section 431 the following:

''SEC. 432. PASSENGER AND CREW INFORMATION REQUIRED FOR LAND, AIR, OR VESSEL CARRIERS.

''(a) IN GENERAL.—For every person arriving or departing on a land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission information described in subsection (b) in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary.

''(b) INFORMATION DESCRIBED.—The information described in this subsection shall include for each person described in subsection (a), if applicable, the person's—

''(1) full name;

''(2) date of birth and citizenship;

''(3) gender;

''(4) passport number and country of issuance;

''(5) United States visa number or resident alien card number;

''(6) passenger name record; and

''(7) such additional information that the Secretary, by regulation, determines is reasonably necessary to ensure aviation and maritime safety pursuant to the laws enforced or administered by the Customs Service.''.

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following:

''(t) The term 'land, air, or vessel carrier' means a land, air, or vessel carrier, as the case may be, that transports goods or passengers for payment or other consideration, including money or services rendered.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 45 days after the date of the enactment of this Act.

SEC. 144. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

The Tariff Act of 1930 is amended by inserting after section 582 the following:

''SEC. 583. EXAMINATION OF OUTBOUND MAIL.

''(a) EXAMINATION.—

''(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

''(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

''(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

''(B) Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

''(C) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).

''(D) The Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).

''(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

''(c) SEARCH OF MAIL SEALED AGAINST INSPECTION.—(1) Mail sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:

''(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

''(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

''(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

''(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

''(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

''(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

''(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).

''(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. app. 1 et seq.).

''(K) Merchandise subject to any other law enforced by the Customs Service.

''(2) No person acting under authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

''(A) a search warrant has been issued pursuant to Rule 41, Federal Rules of Criminal Procedure; or

''(B) the sender or addressee has given written authorization for such reading.''.

SEC. 145. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2002.

(2) OPERATIONS DESCRIBED.—The operations referred to in paragraph (1) include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs

Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who monitor the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

Subtitle E—Textile Transshipment Provisions

SEC. 151. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

(a) GAO AUDIT.—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor textile transshipment.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

(c) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question.

SEC. 152. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for textile transshipment enforcement operations of the Customs Service $9,500,000 for fiscal year 2002.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(b) USE OF FUNDS.—Of the amount appropriated pursuant to the authorization of appropriations under subsection (a), the following amounts are authorized to be made available for the following purposes:

(1) IMPORT SPECIALISTS.—$1,463,000 for 21 Customs import specialists to be assigned to selected ports for documentation review to support detentions and exclusions and 1 additional Customs import specialist assigned to the Customs headquarters textile program to administer the program and provide oversight.

(2) INSPECTORS.—$652,080 for 10 Customs inspectors to be assigned to selected ports to examine targeted high-risk shipments.

(3) INVESTIGATORS.—(A) $1,165,380 for 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods.

(B) $149,603 for 1 investigator to be assigned to Customs headquarters textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective.

(4) INTERNATIONAL TRADE SPECIALISTS.—$226,500 for 3 international trade specialists to be assigned to Customs headquarters to be dedicated to illegal textile transshipment policy issues and other free trade agreement enforcement issues.

(5) PERMANENT IMPORT SPECIALISTS FOR HONG KONG.—$500,000 for 2 permanent import specialist positions and $500,000 for 2 investigators to be assigned to Hong Kong to work with Hong Kong and other government authorities in Southeast Asia to assist such authorities pursue proactive enforcement of bilateral trade agreements.

(6) VARIOUS PERMANENT TRADE POSITIONS.—$3,500,000 for the following:

(A) 2 permanent positions to be assigned to the Customs attaché office in Central America to address trade enforcement issues for that region.

(B) 2 permanent positions to be assigned to the Customs attaché office in South Africa to address trade enforcement issues pursuant to the African Growth and Opportunity Act (title I of Public Law 106–200).

(C) 4 permanent positions to be assigned to the Customs attaché office in Mexico to address the threat of illegal textile transshipment through Mexico and other related issues under the North American Free Trade Agreement Act.

(D) 2 permanent positions to be assigned to the Customs attaché office in Seoul, South Korea, to address the trade issues in the geographic region.

(E) 2 permanent positions to be assigned to the proposed Customs attaché office in New Delhi, India, to address the threat of illegal textile transshipment and other trade enforcement issues.

(F) 2 permanent positions to be assigned to the Customs attaché office in Rome, Italy, to address trade enforcement issues in the geographic region, including issues under free trade agreements with Jordan and Israel.

(7) ATTORNEYS.—$179,886 for 2 attorneys for the Office of the Chief Counsel of the Customs Service to pursue cases regarding illegal textile transshipment.

(8) AUDITORS.—$510,000 for 6 Customs auditors to perform internal control reviews and document and record reviews of suspect importers.

(9) ADDITIONAL TRAVEL FUNDS.—$250,000 for deployment of additional textile production verification teams to sub-Saharan Africa.

(10) TRAINING.—(A) $75,000 for training of Customs personnel.

(B) $200,000 for training for foreign counterparts in risk management analytical techniques and for teaching factory inspection techniques, model law Development, and enforcement techniques.

(11) OUTREACH.—$60,000 for outreach efforts to United States importers.

SEC. 153. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Of the amount made available for fiscal year 2002 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 101(b)(1) of this Act, $1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan Africa countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

(1) TRAVEL FUNDS.—$600,000 for import specialists, special agents, and other qualified Customs personnel to travel to sub-Saharan Africa countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—$266,000 for 4 import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) DATA RECONCILIATION ANALYSTS.—$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of investigations and other enforcement initiatives.

TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''not to exceed'';

(B) in clause (i) to read as follows:

''(i) $30,000,000 for fiscal year 2002.''; and

(C) in clause (ii) to read as follows:

''(ii) $31,000,000 for fiscal year 2003.''; and

(2) in subparagraph (B)—

(A) in clause (i), by adding ''and'' at the end;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)) is amended by adding at the end the following:

''(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.''.

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2002 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) in clause (i) to read as follows:

''(i) $51,400,000 for fiscal year 2002.''; and

(2) in clause (ii) to read as follows:

''(ii) $53,400,000 for fiscal year 2003.''.

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended by adding at the end the following:

''(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.''.

TITLE IV—OTHER TRADE PROVISIONS

SEC. 401. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.

(a) IN GENERAL.—Subheading 9804.00.65 of the Harmonized Tariff Schedule of the United States is amended in the article description column by striking ''$400'' and inserting ''$800''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 402. REGULATORY AUDIT PROCEDURES.

Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended by adding at the end the following:

''(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

''(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

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

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

As I indicated on the previous legislation in front of us, I do ask that we suspend the rules and pass H.R. 3129, as amended, as well.

The amendment in this instance is a deletion rather than an addition. Although in committee we had a full and, I think, useful discussion about a number of concerns dealing with Customs and the way in which Customs deals with our border security and the way in which they enforce the law, one provision which caused some consternation and which has been in front of us for several years is the way in which Customs officials in particular areas are compensated.

It is a difficult job, because many of the airports in Customs locations are open 24 hours a day. People are coming in at all hours of the morning and night as well as during the day, and so it is a difficult labor situation. And in an attempt to try to figure out how to have an equitable pay structure for those who might be working shifts that most of us would be more familiar with, called graveyard shifts or night shifts, there does need to be a bit of an incentive in terms of offering more than the normal compensation during normal working hours.

The difficulty is that in certain areas there are individuals who are receiving nighttime pay, or overtime pay, that is used normally to compensate for the unusual hours they are working, and they are working in the middle of the day. This anomaly we attempt to correct in this legislation.

My friends on the other side of the aisle were strongly objective to removing night pay for people who are at work and if they look out the window the sun is shining. To make sure that we move forward with this whole area of trade and Customs, this legislation was placed on the suspension calendar. As a gesture which may or may not be received in the spirit in which it is delivered, we requested that we delete that portion of the Customs reauthorization dealing with the wage dispute.

The rest of the bill, I believe, is completely meritorious and deserves in its entirety to be passed, without objection, and I would urge that we do so on the suspension calendar.

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

Mr. MCDERMOTT. Mr. Speaker, I yield myself 3 minutes, and I rise in opposition to H.R. 3129.

This is another bill that is put out here to confuse people, to throw sand in the eyes of Members of Congress. It was presented to the committee as a pay bill for Customs people. We voted on it there. And between the committee and coming to the floor, they suddenly took that all out and put a study in. Thank you very much, Mr. Chairman, we appreciate that. The other provisions were no good.

But what is left is not good either, because it should have gone to the Committee on the Judiciary. The sections which pertain to immunity of Customs agents and allowing the unwarranted search of outgoing U.S. mail should have been talked about by the Committee on the Judiciary. It seems to me that the Ways and Means was used as a way to go around the Committee on the Judiciary, rather than having them consider what needs to be done.

Now, our Customs agents are good and sincere people who have grave responsibilities. Unfortunately, there have been abuses of the authority that Customs agents have. A March 2000 General Accounting Office report found that while black female citizens were nine times more likely than white female citizens to be subject to x-ray searches by the Customs Service, these black women were less than half as likely to be found carrying contraband as white women.

Section 141 of the bill would exempt the Customs officer from liability for engaging in illegal body cavity search and from liability for illegal searches, provided the officer acted in good faith. Now, there is no reason put forward why we should change the standard set by the Supreme Court that the reasonableness of an officer's behavior is the proper test of liability. In the aftermath of the GAO study, many changes were instituted by Customs, and I believe that we should not change this in this way.

This is also not the time to give them a new standard about looking at mail. We prevent mail from coming in without a search because we are protecting ourselves. When it is going out, there is no justification given for why we are doing that. I think that that is another change, a power grab by the Justice Department, done through the Committee on Ways and Means.

And without anybody talking about it, they then added $9 billion to Customs for agents to deal with transshipment. Now, my colleagues, that is put in the bill for one reason and one reason only: To get textile people to say they are going to keep the textiles out of our country, we have good protectionists, so I can vote for trade promotion authority. It is simply a sop to Members.

Now, if Members think this is going to go over to the Senate and pass, remember, this has to go through the Senate. Passing in the House is not enough. This is a sop that will not work. I will vote ''no.''

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), chairman of the Subcommittee on Trade.

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

Mr. Speaker, H.R. 3129, the Customs Border Security Act of 2001, would authorize the budget for the U.S. Customs Service, International Trade Commission, and Office of the U.S. Trade Representative. It also includes a number of critical new tools for fighting terrorism, drugs, and child pornography. The legislation will help Customs close a gap in our border that lets illegal money be taken out of the country. This legislation will also significantly help Customs' ability to stop the flow of illegal drugs from crossing our borders and getting into our children's hands.

The administration participated in drafting and working through several measures in this bill. We have a provision to require advanced electronic manifesting on passengers and cargo so that the Customs Service can have advanced notice of who is on planes and what is on ships about to land on American soil.

We also have a provision to give our Customs inspectors some protection against frivolous lawsuits since now, more than ever, they will be scrutinizing and watching people who come into the country, knowing full well that the next terrorist may be stepping off the plane at any time. Inspectors acting in good faith should not have to think twice about being subject to personal civil lawsuits. So we are proposing that they have immunity, but only for those who act in good faith, not for inspectors who may wrongly use race, ethnicity or gender to profile passengers.

The administration also requested that Customs be able to search outgoing mail because of the fact that the

U.S. mail is used to transmit laundered money out of the country. I want to assure Members that we looked carefully at the privacy issues involved here and believe we adequately address them in this legislation. People fear that Customs may be reading our mail, but our bill preserves our cherished fourth amendment right against unwarranted search by requiring that no letter may be read by Customs officers unless a valid warrant is obtained. Remember, money from illegal activities is what leads us to terrorists and drug smugglers. We must preserve our privacy while giving Customs authority to root out these illegal activities.

We have increased funding to reestablish the New York Customs offices and an additional increase in funding to upgrade our textile transshipment monitoring and enforcement operations. Also, H.R. 3129 adds $10 million for the Customs Cyber-smuggling Center. With the explosion of the Internet, our children have become vulnerable to online predators. We need to protect them, and this legislation will help Customs combat this vile behavior.

This legislation also contains authorization for funding for Customs' new automation, the automated commercial environment. In 1998, Customs processed 19.7 million entries. This volume is expected to double by 2005. The current automation system is on the brink of continual brownout and possibly shutdowns. If this happens, it will cost American taxpayers millions of dollars.

I urge all of my colleagues who are serious about stopping terrorism, drugs, and online child pornography, while keeping our trade flowing, to support this bill.

□ 1045

Mr. McDERMOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to H.R. 3129. This bill threatens to violate the civil rights of international travelers. The Customs Service's poor record of racially profiling passengers has been well documented. While I appreciate the attempts that they have made to address the problem, now is not the time to grant immunity to Customs officers conducting personal searches.

For more than 2 years, I have been examining allegations of racial profiling by Customs inspectors throughout the country, and mistreatment of international travelers, especially African Americans and Hispanics, in the Customs Service personal search process. I will not support any legislation that will grant Customs officers immunity before we have seen significant improvement in their record on racial profiling.

As public officials, Customs agents already have qualified immunity which is more than adequate to protect them if acting within the scope of their official authority. Civil lawsuits against government officials and agents are an important deterrent to racial profiling and unconstitutional and unlawful searches. Without the possibility of a lawsuit, individuals who have been treated in an unconstitutional manner by a government agency will have no redress, and the government agents will have less incentive to comply with the Constitution.

Mr. Speaker, I urge all of my colleagues to protect the basic civil rights and civil liberties of international travelers and oppose this bill.

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

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

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

Mr. Speaker, we have done a lot in a rush after September 11: Questioning the attorney's right to talk to his client without being listened to; military trials where the Attorney General and the Secretary of Defense will certify someone was a foreign terrorist and deny them a fair trial, whether they happen to be, in fact, a guilty terrorist or not. The individual might be an innocent citizen, but is still stuck with this system because the Attorney General has accused the individual.

We passed the airline security bill which included provisions which significantly reduced the rights of victims to be compensated for their injuries and without consideration by the Committee on the Judiciary which has jurisdiction over this, and now we are asked to suspend the rules and pass a bill which includes provisions which reduce the rights of victims of unconstitutional, unreasonable searches by government officials, searches which could include strip searches and so-called cavity searches. Many of these searches have been found to be conducted pursuant to racial profiling. They have only been stopped by lawsuits, and here we have bill that will throw some of these people out of court and make it less likely that these unconstitutional searches will be stopped.

The Supreme Court has held that the objective reasonableness of the official's behavior ought to be the standard, not the so-called good faith standard that is in this bill as the standard for liability. If we are going to change the standard, we ought to do it through the regular legislative process. Let the Committee on the Judiciary have hearings so we can consider whether a change needs to take place.

Rather, we are here on a motion to suspend the rules and just pass the bill. I would hope that we would not proceed with this standard, with this procedure, where we cannot have amendments or hearings, we have to take it up or down. This is too serious an issue to consider this way. I urge Members to defeat the motion to suspend the rules.

Mr. THOMAS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation. We did have hearings on this bill, I would note, and I am very proud to support it.

Furthermore, it is an urgent matter that we pass this at this time. First of all, it provides clear authority for Customs to get passenger lists from other countries. That authority is not clear in our Customs law. If we want Customs to provide us with the protection that they need to, we need to enable them to have advanced electronic information about passengers, cargo, carrier crew lists, and manifests.

This is very important in terms of the immediate challenge of protecting ourselves more effectively against terrorism. This is just as important as the airport safety bill. In addition to providing access to information about passengers and cargo, it allows clear authority to search outbound mail. Customs has authority to search inbound mail, but it is in the outbound mail that the cash roars out of America, laundered clean for terrorist activities and illegal drug smuggling.

Further, $10 million is going to go to something that I have been fighting for for 3 years and has had lots of hearings. Our children are not threatened by sexual exploitation and attack any more by people lurking in the school yards of America. They are now on the computers. They are in chat rooms. Do Members know where most of the child pornography comes from and how it comes into America? It flows in through cyberspace. Who are the people who have developed the most effective means of stopping child pornography and interrupting those conversations in the chat room through which adults are gaining access to children and luring them into dangerous relationships, it is the Customs folks.

I have talked to them extensively in my district. This is the ammunition that they need to beef up the resources and expand the expertise. They are really now skilled at this, being able to follow these chat room conversations, spot those individuals who are posing as young people, but who are really out to attract young people into meeting them here or there for sexual exploitation.

Mr. Speaker, we are very fortunate that we have not had more young children murdered. We have had children met in parking lots as a result of contacts made through international cyberspace connections.

And now the business that is developing in tourism, foreign companies luring, over our computers, adults to join trips whose goal it is to offer young children around the world to American tourists. Mr. Speaker, it is terrible. It is horrible, and that is a piece of this legislation that is urgently needed.

Mr. Speaker, do not underestimate the importance and the relevance of

this to the very situation we face right now. Customs lost textile monitoring and enforcement infrastructure from the September 11 attack, and this allows the reestablishment of those offices and provides the resources so that the textile clearinghouse and commercial operations can be reestablished.

This is a very, very important bill. It is not sexy. There is not a lot of interest in Customs in Congress. There never has been. But the authorities that we are granting in this bill, the resources that we are providing, the border protection equipment to fight terrorism and illegal drugs, is very important. Again, do not let this be mired down or defeated by all of the other cross-currents that are swirling in this body and between the two Houses.

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

Mr. Speaker, the gentlewoman's program has been funded for 3 years without authorization. We do not need this bill for that purpose.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. RANGEL).

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

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

Mr. RANGEL. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I would like the gentlewoman from Connecticut (Mrs. JOHNSON) to know that the Committee on the Judiciary made a great pitch to increase the funding for Customs. It was blocked by the chairman of the Committee on Ways and Means sitting there. That is why we could not do it.

Mr. RANGEL. Mr. Speaker, Customs has no better friend than myself. When I was prosecuting narcotics cases, they were just as dedicated then in trying to keep those poisons from crossing our borders as they are today.

But it bothers me that the gentlewoman from Connecticut (Mrs. JOHNSON) in calling the bill not sexy would spend most of her time talking about preventing child pornography when the last several speakers on our side were talking about civil liberties. As a matter of fact, I have not heard anyone on the other side deal with this.

Mr. Speaker, we can have a good cause and good bill, fight terrorism, but if we ever lose sight of the constitutional rights of people to be protected, their civil rights, then we have lost this battle against terrorism. We have provisions here that say in this bill on the suspension calendar without the benefit of the thinking of the people on the Committee on the Judiciary that we are going to give some type of immunity, immunity to people who violate the rights of other people.

The Customs Service did not support these changes. The Department of Justice did not ask for these changes. The Department of Treasury did not ask for these changes, and these changes can violate the very structure of the constitutional rights of our people. So hey, put on the record, Democrats are against child pornography; but let us get on with answering some of the serious constitutional questions concerning civil liberties that our side has raised.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, the immunity section was specifically asked for by Customs, and responds to their very deep-seated need for protection from suit for actions that they as officers must take. After all, they do not know who is walking up to them and must make difficult instant judgments about their need to search and/or restraint.

Mr. RANGEL. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I would not put the valuable reputation of the gentlewoman from Connecticut on the line for that statement because our side is convinced that Customs did not ask for it and do not support it. The gentlewoman knows how much I respect her.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I appreciate the gentleman making that comment. I am putting on the record that our staff says Customs asked for this, so at least the public listening to this debate and the Members ought to know that our staff believes Customs asked for this very language and needs it.

Mr. RANGEL. If the gentlewoman would continue to yield, I am certain before the debate is over, staff will produce a document from Customs stating that. If not, we have a problem.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS) to clarify what the Department of Justice wants.

Mr. CONYERS. Mr. Speaker, I have no idea what Department of Justice wants; and I can tell the gentleman, I do not care what Customs wants. Whether they asked for it or not, they should not get it. There are no documents to prove that they asked for it; Members can be the jury.

The question that the gentleman from New York raises is whether we are going to sanctioning in this quickie here, a racial profiling exemption that goes back, the qualified exemption that Customs already enjoys.

What are we doing here? We already have a dozen cases that have come out of court that have said that Customs is protected and has a qualified exemption from even the wrongdoing of the agents of Customs.

□ 1100

Now, and I guess this is in the quiet of the daytime, we are now saying let us exempt the whole agency, not just the individual agents that conduct these violations. Then I am hearing people talk about we need more money. And it is terrible what is happening to kids and ladies and girls, but the chairman is the one that blocked us adding the money. He is sitting here quietly reserving his time.

This is a wonderful practice, but what has it got to do with the Customs Border Security Act? Here is a bill that is going to bite the dust because we will not level about what we are doing here. So I cannot authorize sanctioning agencies to have exclusive remedy exemption, when they already have partial exemption.

Mr. THOMAS. Mr. Speaker, I continue to reserve my time.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

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

Mr. Speaker, we could have had a very good bill that would have received a very large vote in support. The majority did the right thing by removing a provision in from the bill that would have unfairly cut the pay of our Customs officials, our front line at our borders to prevent terrorist activity from entering into our country. It has provisions which provide for automation for a computer system which is outdated and which must be replaced so we can track what comes into this country. But yet this bill instead chose to sacrifice privacy under the guise of security.

Regarding this immunity that the Customs Service so-called requested, first in committee, they could not explain why they needed it. But, more importantly, we know that the Customs Service has a terrible record when it comes to racial profiling.

Our own auditors, the General Accounting Office, has found that while black female U.S. citizens are nine times more likely than white U.S. citizens to be the subject of x-ray searches by our Customs Service, they are half as likely as white female U.S. citizens to actually be carrying contraband.

Let me repeat that. Even though African American women are found to carry contraband, U.S. citizen African American women are half as likely to carry contraband as white U.S. citizen women, they are nine times as likely to be searched. Yet we want to give the Customs Service more immunity from lawsuits for having done that? It is crazy.

Then we talk about inspecting mail. We inspect mail that comes into this country because we do not know what it might contain. Good. But mail going out, our privacy invaded? Right now, Customs Service has every right to inspect that mail by getting a search warrant. They can hold mail.

If they believe there is some contraband there, if there is money laundering occurring, all they have to do is hold it. They have the power to get a judicial order to hold it and inspect. What we are saying in this bill is forget

about getting the judicial order, let us let them inspect without that. This is wrong. We should not sacrifice privacy.

We should pass this bill if we could, but we cannot. Let us defeat it.

Mr. THOMAS. Mr. Speaker, I continue to reserve the balance of my time, the assumption being we have no further speakers.

Mr. MCDERMOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this is the wrong way and the wrong time to consider this bill. Voted out of committee on Halloween, this is your typical Ways and Means trick-or-treat bill; a ''trick'' for hard-working employees, whose pay would be lowered, as originally proposed in a provision abandoned only last night, a ''treat'' for those who refuse to be held accountable.

If this measure is so absolutely vital in the war on terrorism, why has the gentleman from California (Mr. THOMAS) and the Republican leadership sat on it for 36 days, for 5 weeks, doing nothing about this piece of legislation?

No opportunity was offered to either the Ways and Means Committee or the Committee on the Judiciary, to consider the civil liberties questions associated with this measure.

This bill is part of a larger, very troubling trend in our country today. In defending our country from terrorists, it is critically important that we not erode the very values and principles for which this country stands—that we not destroy our democratic system in a misguided attempt to save it.

What separates us from our enemies is our respect for the rule of law, and as we seek to protect our freedom, we must not adopt measures that undermine our democracy.

Each passing day, particularly from the mouth of Attorney General John Ashcroft, seems to bring new dangers to our system of liberty: Eavesdropping on conversations between attorneys and their clients; secret military tribunals that deny the choice of legal counsel, deny trial by jury, deny any appeal through the judicial process, and deny other due process guarantees. They are the very type of fundamental procedural rights that those of us in the Human Rights Caucus have criticized when employed in countries around the world. Despite objections from the FBI, now the Justice Department is considering spying on domestic religious organizations. And now this measure today that would make it almost impossible for one to challenge an unconstitutional search and would allow the surreptitious opening of some of our mail.

This bill ought not to be considered in this way at this time. Because this bill fails to maintain the appropriate balance between our security and our rights. We need a no vote.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for allowing me time.

Mr. Speaker, I would like to tell the story of Yvette Bradley. A 33-year-old advertising executive and her sister arrived at Newark Airport from a vacation in Jamaica, an African American woman. Upon encountering Customs agents, Ms. Bradley recalls that she, along with most of the other black women on the flight, were singled out for searches and interrogation, where she experienced one the most humiliating moments of her life. All throughout her body was tapped and private parts were tapped. And, you know what, Mr. Speaker, no drugs or contraband was found.

I happen to be a strong supporter of our Customs agents and the responsibilities that they have. Interestingly enough, however, they have all of the provisions that they need to ensure the safety of this Nation.

To take away, to give them a bye, a pass, on the Bill of Rights and the Constitution, the understanding of unreasonable search and seizures, is unfair. The ability to search mail, more than they have now, is unfair and it is not what the American people want us to do.

This legislation did not go to the Committee on the Judiciary. This legislation came out of the Committee on Ways and Means on a party vote. It seems simply ludicrous that we throw to the wind our Constitution when we are fighting terrorism around the world.

This bill fails to address the very serious problems of racial profiling and invasions of privacy by our Customs agents. The Customs Service has a poor record on racial profiling. A March 2000 General Accounting Office report found that while black female U.S. citizens were nine times more likely than white female U.S. citizens to be subjected to x-ray searches by the Customs Service, these black women were less than half as likely to be found carrying contraband as white females.

Last April, Yvette Bradley, a 33-year-old advertising executive and her sister arrived at Newark Airport from a vacation in Jamaica. Upon encountering Customs agents Ms. Bradley recalls that she, along with most of the other black women on the flight, were singled out for searches and interrogation where she ''experienced one of the most humiliating moments of (her) life.'' According to a subsequent ACLU lawsuit, Bradley was led to a room at the airport and instructed to place her hands on the wall while a Customs officer ran her hands and fingers over every area of her body, including her breasts and the inner and outer labia of her vagina. The search did not reveal any drugs or contraband.

Mr. Speaker, the bill before us today, H.R. 3129, contains a number of problematic provisions that perpetuate these kinds of insidious acts. Most notably, two provisions raise significant constitutional and civil liberties concerns. First, the Good Faith Immunity provision of section 141 provides Customs inspectors immunity from lawsuits stemming from personal searches of people entering the country so long as the officers conduct the searches in ''good faith.'' Importantly, this provision has nothing to do with preventing terrorists from boarding airplanes. Customs officers search passengers when they are exiting the plane, not when they are boarding. Nothing in the provision limits it to terrorist investigations.

The provision was included as a ''procedural'' device to allow civil cases against individual Customs agents to be dismissed in the early stages of litigation. However, it is clear from a plain reading of this provision that the intent is to broaden the standard of immunity allowable under current law. The existing doctrine of qualified immunity protects public officials performing discretionary searches from civil damages if their conduct does not violate statutory or constitutional rights. However, the Supreme Court has repeatedly held that the proper standard of an officer's behavior with respect to liability is objective reasonableness and not subjective ''good faith.''

This provision in H.R. 3129 could weaken protections against racial profiling and other illegal and unconstitutional searches by the Customs Service. Despite the Majority's stated intent, section 141 appears to be a substantive, not a procedural, change and it is thus unclear why the provision is necessary.

Next, the Outbound Mail provision of section 144 would allow Customs investigators broad authority to search mail. With respect to outbound U.S. mail, this would allow broad authority of Customs to search packages for unreported money or other monetary instruments, weapons, and other contraband which could be used by terrorists. With respect to sealed outbound U.S. mail, the bill allows broad authority to Customs to open mail with ''reasonable cause'' to suspect that the mail contains contraband. Under current law, the Customs Service may search, without a warrant, any inbound mail handled by the United States Postal Service and packages and letters handled by private carriers such as Federal Express and the United Parcel Service. This ''border exception'' to the fourth amendment derives from the authority of the government to protect its borders against inbound contraband and to collect duties on inbound freight.

However, the bill would allow Customs officials to open ''sealed'' mail with ''reasonable cause.'' This is a far lower standard than probable cause, and would effectively eliminate the need for judicial review. Furthermore, section 144 would allow Customs officials to open ''unsealed'' mail and any mail bearing a Customs declaration for no cause whatsoever.

Americans have an expectation of privacy in the mail they send to friends, family, or business associates abroad. The Customs Service's interest in confiscating illegal weapons shipments, drugs, or other contraband is adequately protected by its ability to secure a search warrant when it has probable cause. Short of an emergency, postal officials can always hold a package while they wait for a court to issue a warrant.

I urge my colleagues to oppose this bill.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I know people on the other side think that the

private sector ought always to be our model, but they have misapplied it in this case, because the model they have chosen is the Enron Corporation. The Enron Corporation got into trouble for engaging recklessly in trading in a way that violated the rules.

Well, that is what is happening here today. The gentlewoman from Connecticut is right. This is a very important bill, far too important to be debated under a procedure that was created for noncontroversial legislation: 40 minutes of debate and no amendments.

There are several important pieces to this bill. They try to achieve important goals. But some of them are flawed. There is no reason why, we have not been working that hard this week, we could not have had a serious debate on this bill.

Why is this now being rushed through? Because we are following the Enron principle. There is some trading going on here. In this case, what we are trading are votes on the trade bill.

What happened is very simply this: The Republican leadership found itself short of votes for fast track, so what they decided to do was to reach into the goodie-bag, they pull out trade adjustment assistance, which they will grudgingly put forward for a vote, they reach into this bill and rush it forward because it has some payoff for people in the textile industry.

I want to see the textile rules better enforced. I want to see us better protected a lot of ways. But I do not want to see that done by following the Enron model where the importance of trading is so overwhelming that you short circuit the rules and play fast and loose and get yourself in trouble.

It is an absolute degradation of the legislative process for a bill of this importance to be debated under this procedure of suspension of the rules.

We are opposing not the substance, which many of us support in some areas, but this degradation of the legislative process, this refusal to allow honest democratic debate on important subjects, simply because the Republican leadership finds itself a little shorter of votes than it thought for the bill.

I would also say, while we are at it, that people who are tempted by this ought to be clear that they get some guarantees. When people bring up a bill just like this, just before another vote, with no guarantee that it is going to go anywhere, they better be worried about consumer fraud as well as illegitimate trading.

Mr. McDERMOTT. Mr. Speaker, could the Speaker tell me how much time I have remaining?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Washington (Mr. McDERMOTT) has 2 minutes.

Mr. McDERMOTT. I yield 1½ minutes to the gentleman from South Carolina (Mr. SPRATT).

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

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

Mr. Speaker, as a veteran of every textile battle that has been fought on this floor for the last 20 years, let me warn my colleagues, you are badly mistaken if you think this bill is going to help our beaten and beleaguered industry.

First of all, it purports to put up $9.5 million for additional Customs enforcement. I am not one to look a gift horse in the mouth, I am glad to have $9.5 million, but I am also sensible enough to know that it does not amount to a thing until there is an appropriation. And what bill would provide the appropriation? Treasury-Postal. Long gone. When is there another vehicle coming? Who knows.

Secondly, this bill purports to deal with transshipment. Now, this is a chronic problem. I know it. I have offered legislation in the past to deal with it. If you wanted to get at it, you would get at the biggest offender, China, when the MFN bill came through here.

In any event, this is not the real problem today, because transhipment is mainly about quota evasion, and quotas have grown so liberal and increased every year that we have a $77 billion trade deficit today in textiles and apparel.

In any event, in any event, changing the definition of transshipment and asking for a General Accounting Office report on transshipment is not going to do a doggone thing about the problem until you put up money for additional Customs enforcement agents to do something about it.

My friends, if you want to make sure textiles do not become the sacrificial lamb, the donor industry, in the next round of trade negotiations, if that is what you want to do, we ought to be out here on the floor mandating USTR, no further tariff cuts in textiles, no acceleration of the integration agreement and the abandonment of quotas.

Textiles, believe me, Mr. Speaker, is an industry that is not just hurting, but is hemorrhaging and in desperate need of help, but this bill is deceitful in pretending to help and doing so very little.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) continues to reserve. The gentleman from Washington (Mr. McDERMOTT) has 30 seconds remaining.

Mr. McDERMOTT. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, there is an old rule in politics: If you got the votes, shut up. And I guess that is what the chairman is thinking.

But the fact is that the silence on the other side in answer to these constitutional questions, the fact that the chairman of the Committee on the Judiciary never even came out here, no one came out here to rebut a single question of the Constitution, speaks louder than any words you could have spoken in the minutes that you have reserved.

I am sure that when people listen, I guess silence means assent, they agree on the other side that we are right. We are taking away fourth amendment rights, and we are doing it without any hearings.

This is really a sad day for the Constitution on the floor of the House of Representatives.

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

Mr. Speaker, I hope the folks who are listening and watching appreciate that someone who is listening and watching happens to be named Stephen L. Basha. Stephen L. Basha just called and said he could not believe what was occurring on the floor of the House.

Stephen L. Basha just happens to be the Associate Chief Counsel of the Office of Chief Counsel of the U.S. Customs Service. He was the gentleman who was at a hearing. You have heard representations that we have had no hearings. The testimony from the committee will show we had hearings, and one of the principal witnesses was the very same Stephen L. Basha, who indicated that there are hundreds of Customs workers following the law who are, nevertheless, sued. They are sued up to and including their homes being attached. They are put through years of meat-grinder court cases by money-grubbing attorneys looking for cheap settlement, and, after years, they are vindicated.

There is no question that in any situation when you are dealing with sensitive things like trying to make sure that terrorists do not come into this country, that drug dealers do not walk right past honest citizens, that there may be a mistake or two being made.

The key there is in education, to make sure that these very useful profile techniques are constantly improved; that the people who are utilizing these are required to have sensitivity training; that they are required to know clearly the law; and that in the course of the testimony you will find, and I am not allowed to read from it under the Rules of the House, but it is here, a clear understanding and a commitment upon the recommendation of the Democrats that we require the information that is the lawful structure of that profiling to be prominently displayed to make sure that the workers are sensitized.

□ 1115

Now, I have heard several times that this is a power grab by the Committee on Ways and Means; that we are going around the jurisdiction of other committees. Seated just to the right and behind the Speaker is the Parliamentarian. The Parliamentarian is a nonpartisan professional job. Their job is to analyze legislation and determine where it should go based upon the content of the legislation and the jurisdiction of the committees. Had this had an involvement with the Committee on

the Judiciary, under the Rules of the House, the nonpartisan Parliamentarian would have said that the Committee on the Judiciary must be involved, either through primary jurisdiction, through concurrent jurisdiction, or through sequential jurisdiction. None of those jurisdictional provisions were called for. Power grab?

It is interesting that the gentleman from Texas lays upon this small and modest bill what he perceives to be the sins of the Bush administration through the Attorney General to try to protect the American people from further terrorist acts. This bill contains money not only to help in protecting against terrorism, but against drug addiction and against child pornography. If folks believe that this one, small provision requested by Customs to protect Customs officers in the lawful carrying out of their job is just too much for them, then vote against increasing our ability to protect Americans against terrorism, vote against a better, more efficient drug addiction structure, and vote against all of the new technological capabilities in going after those who prey on our youth.

Now, the other thing that really amazes me, but sometimes my threshold for amazement is not as high as it probably should be; the gentlewoman from Texas in her remarks said this bill came out of committee on a party-line vote. Again, if my colleagues will check the records of the committee, she is absolutely, flat out, factually wrong. How can I say that? Because this did not come out of the committee with a vote recorded at all. Not only was it not a party-line vote, there was no vote. The record will show that there was no vote requested by the minority on ordering this bill from the committee to the floor. It was ordered from the committee to the floor on a voice vote. And yet, at the eleventh hour, all of these indignations are surfacing on a provision that was there, requested by the Customs officials, so that the hard-working, frontline soldiers at our border are not unnecessarily harassed in trying to carry out the law and in protecting Americans from drugs, from terrorism, and from child pornography.

So in terms of the criticism that how come it has taken so long to bring this to the floor, which we heard, and then how come we are rushing it through; once again, if we take every side of the argument to stop a piece of legislation, the assumption is we may not necessarily be arguing about what is in the legislation, we just want the world to stop. Because in stopping the world, then the things that need to be done will not go forward and maybe, just maybe, somebody might be fooled into thinking that this would be a reason to vote for one person over another. If that is, in fact, the reason that we are opposing this piece of legislation, that is probably the worst possible reason that anyone could offer.

What this is is a modest Customs reauthorization, and what it does is extend Customs' ability to deal with problems that are manifest, including the failure of the Customs Department to focus on areas that people who are concerned about illegal textiles, like transshipment, need to be focused on. We not only say more agents need to be involved, we say more money ought to be placed on the table. We do both in this bill. Is it enough? Probably not. Is it more than what we are doing now? Yes. Will it be better than yesterday? Yes.

The gentleman from Washington said that we placed a study in the bill; again, he is factually flat out wrong. I said at the beginning that we were removing provisions of the bill. We did not add a study; we removed a provision. So when someone stands up and exhorts all of the problems and arrows of the world that have been inflicted on them by everyone else and says, all of it is manifest in this particular bill, I would ask that they actually take a look at what it is that we are placing before the House of Representatives in this bill. It is Customs reauthorization. It deals with those frontline soldiers who have an extremely difficult job; it provides them with a few more resources; it provides them with a few more technological tools in doing the job that they do, on the whole, very well, and that, hopefully, with this particular piece of legislation, they will be able to do it even better.

Mr. OTTER. Mr. Speaker, I rise today to discuss H.R. 3129, the Customs Border Security Act of 2001. Most of H.R. 3129 is a well-crafted and needed response to the events of September 11. I firmly believe that we need to strengthen the U.S. Customs Service to properly guard against the threats we now face. I particularly support the bill's provision for 285 new customs officers along the Canadian border. I represent a State that borders Canada and have seen the vast increase in traffic along US–95, one of our Nation's NAFTA corridors. Adding more customs officers will help protect Idaho, and the United States, from those who would seek to use the world's longest peaceful border against us.

I also strongly support the provision raising the personal exemption for goods brought back into the United States from $400 to $800. This step will help facilitate the growth of tourism and cut through much useless red tape.

Unfortunately, H.R. 3129 contained provisions that forced me to vote against it. In particular, section 141 establishes so-called ''good-faith'' protection for customs officers who violate the law in the course of carrying out their duties. If enacted into law section 141 would prohibit those affected by such lawbreaking from seeking damages from the guilty parties.

Working men and women are punished every day in Idaho for alleged violations of Federal laws they didn't even know existed. Sadly their ''good-faith'' carries no weight with the enforcement bureaucracies of the Federal Government. The officials who enforce these laws should be held to the same standards. Granting Federal bureaucrats special exemptions from the law is to establish an artificial separation of the government from the governed. Retaining the right to sue government officials for violations of our rights is the best defense imaginable for ensuring that those rights are protected in the first place. I cannot vote to remove this protection from my constituents.

I welcome the announcement by Chairman THOMAS that he will be bringing this bill up under regular order in the near future. I look forward to working with him and Members from both sides of the aisle to improve this bill and improve our Customs Service.

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3129, as amended.

The question was taken.

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

Mr. McDERMOTT. 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. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3008, by the yeas and nays;

H.R. 3129, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second vote in this series.

TRADE ADJUSTMENT ASSISTANCE PROGRAM REAUTHORIZATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3008, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3008, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 3, answered ''present'' 1, not voting 9, as follows:

[Roll No. 477]

YEAS—420

Ackerman	Allen	Baca
Aderholt	Andrews	Bachus
Akin	Armey	Baird

Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—3

Abercrombie
Flake
Paul

ANSWERED ''PRESENT''—1

Filner

NOT VOTING—9

Brown (SC)
Clyburn
Cubin
Hostettler
Meek (FL)
Morella
Quinn
Roukema
Young (AK)

□ 1148

Mr. TAYLOR of Mississippi changed his vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.''.

A motion to reconsider was laid upon the table.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 477 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ABERCROMBIE. Mr. Speaker, in the matter of rollcall 477, H.R. 3008, I was recorded as voting ''no'' when I intended to vote ''yea.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the motion to suspend the rules on which the Chair has postponed further proceedings.

CUSTOMS BORDER SECURITY ACT OF 2001

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3129, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 3129, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 256, nays 168, not voting 9, as follows:

[Roll No. 478]

YEAS—256

Aderholt
Akin
Armey
Bachus
Baird
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
LaFalce
LaHood
Langevin
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Oxley
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)

Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Young (FL)

NAYS—168

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—9

Brown (SC)
Clyburn
Cubin
Hostettler
Kirk
Meek (FL)
Quinn
Roukema
Young (AK)

□ 1159

Mr. CROWLEY changed his vote from ''yea'' to ''nay.''

Mr. ISRAEL changed his vote from ''nay'' to ''yea.''

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 478 I was unavoidably detained. Had I been present, I would have voted ''yea.''

Mr. KIRK. Mr. Speaker, on rollcall vote 478, I would have voted ''yea.''

GENERAL LEAVE

Mr. THOMAS. 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. 3008 and that, as a matter of notice, H.R. 3129 will reappear on the floor under a rule.

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

There was no objection.

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 306 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 306

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. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purposes 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 is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 306 is a closed rule providing for consideration of H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001, with an hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule waives all points of order against consideration of the bill.

Additionally, the rule provides that the amendment recommended by the Committee on Ways and Means now printed in the rule, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted.

Finally, the rule provides for one motion to recommit with or without instructions.

Before I begin, there are many people responsible for this bipartisan compromise legislation on the floor today. The leadership of this House has been remarkable in educating Members and in reaching out to address their concerns. The gentleman from California (Mr. DREIER), the gentleman from California (Mr. THOMAS), and the gentleman from Illinois (Mr. CRANE) have been the driving force behind free trade; and I thank them and our colleagues on the other side of the aisle, the gentleman from California (Mr. DOOLEY), the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Tennessee (Mr. TANNER), for their diligence and their perseverance.

Mr. Speaker, there was a time when this country could boast that we were the world leader in shaping the rules for international trade, globalization and open markets. Sadly, this is no longer the case.

There are more than 130 regional trade agreements in force today, but only three including the United States. To our south, Mexico has trade deals in at least 28 countries, while across the ocean, the European Union has trade agreements with 27 other countries.

In 1999 one-third of the world exports were covered by EU agreements. Only one-tenth of the world exports were covered by U.S. agreements, sending dollars and jobs to competitors that should have been in the United States.

We are the most competitive Nation in the world, yet we rank 26th in the world in bilateral investment treaties.

We have nearly completed the first year of the 21st century, the new millennium; yet America's trade agenda is still puttering along in a slow lane while our trade partners around the globe speed past us, and every day we get left behind, and our economy and our families are hurt even more.

Each day that America delays, other countries throughout the world are entering into trade agreements without us, gradually surrounding the United States with a network of trade agreements that benefit their workers, their farmers, their businesses and their economies at the expense of us. In short, our trading partners are writing the rules of world trade without us.

How important is this to American jobs and the American economy?

In my State, international trade is a primary generator of business and job growth. In the Buffalo area, the highest manufacturing employment sectors are also among the State's top merchandise export industries, including electronics, fabricated metals, industrial machinery, transportation equipment and food products. Consequently, as exports increase, employment in these sectors will also increase.

From family farms to the high-tech start-ups to established businesses and manufacturers, increasing free and fair trade will keep our economy going and create jobs in our community.

With America at war, now may seem like the time for our country to close

its borders and discourage global interaction. Nothing could be further from the truth.

Never has it been more apparent that we need to enhance and strengthen friendships around the world, and what better way to build coalitions than with free trade.

In the 1960 Democratic platform, President Kennedy put it best in the following message that is relevant both then as it is now. World trade is more than ever essential to world peace. We must therefore resist the temptation to accept remedies that deny American producers and consumers access to world markets and destroy the prosperity of our friends in the non-Communist world.

We can neither deny nor ignore the correlation between peace and free trade.

Not only does the war on terrorism influence the need for free trade, but the anticipated economic opportunities for American workers, farmers and companies will provide a much needed boost to our uncertain economy.

Just look at the facts. One in 10 Americans, nearly 12 million people, work at jobs that depend on exports of goods and services. American farmers exported $51 billion in agricultural products and crops last year that supported 750,000 jobs.

In New York alone, my home State, the number of companies exported increased 61 percent from 1992 to 1998. Currently, the wages of New York workers in jobs supported by exports are 13 to 18 percent higher than the national average. The imports provide consumers and businesses in New York with wider choice in the marketplace, thereby enhancing living standards and contributing to competitiveness.

The world is not waiting while the United States putters along. Trade Promotion Authority offers the best chance for the United States to reclaim leadership in opening foreign markets, expanding global economic opportunities for American producers and workers, and developing the virtues of democracy around the world.

The President has said open trade is not just an economic opportunity, it is a moral imperative. The prosperity and integrity of global democracy is at stake, and it is incumbent upon us to pull into the fast lane in order to reap the benefits of free trade.

What we ask for today is nothing new. Until its expiration in 1994, every President from Richard Nixon through Bill Clinton has enjoyed the right of Trade Promotion Authority. This President deserves the same right.

I strongly urge my colleagues to do the right thing for America. Support this rule and the underlying legislation.

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

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

Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me the customary 30 minutes.

Mr. Speaker, at the risk of being the House contrarian this morning, I again rise in strong opposition to this unfair rule and equally strong opposition to the underlying bill.

At the outset, let me explain the procedural problems with this rule that was reported late last night. Recently, we have heard so much about the new spirit of bipartisanship that is flowering throughout D.C. Unfortunately, the majority members of the House Committee on Rules must not have gotten this memo.

Mr. Speaker, I remember well the times that Republican after Republican came to this floor to decry so-called unfair, heavy-handed tactics that my party used when we held the majority in this Chamber. At that time, Republicans were outraged and incredulous each time an important bill came to the House floor under a closed rule which prohibited serious debate.

This is the exact rule that the Republicans would like us to work under today. So I say to my Republican colleagues, where is the outrage? Where is the disdain? My guess is that the disdain and outrage are packed and ready to go on 4 o'clock planes that they are trying to catch today. What other reason could there be for closing off such important debate?

Let there be no mistake, Mr. Speaker. The bill that we consider today will have profound and long lasting effects on every State in this great country and on citizens throughout the world, and instead of allowing a fair and open debate, the majority is trying to squelch the voices that they wish not to hear.

No amendments or substitute are permitted to this bill. The gentleman from New York (Mr. RANGEL), one of the most respected and distinguished Members of this body, a Member who has served nearly 27 years on the House Committee on Ways and Means, who knows as much about trade as anybody in the House of Representatives, will not be permitted to offer an amendment or substitute to this bill. Frankly, this is not simply unfair; it is offensive.

Moreover, there were a number of other Members who came to the Committee on Rules late last night to ask that their amendments be permitted to be offered. They were all denied their request.

What are Americans being denied the right to hear about? One example, the gentleman from Oregon (Mr. WU), our thoughtful colleague, would have liked to offer an amendment making human rights considerations a principal objective of our trade compacts. If this rule passes, the gentleman from Oregon (Mr. WU) will not be able to offer his commonsense amendment.

Another example, the gentlewoman from California (Ms. WATERS) had sensible amendments related to some of our neediest trading partners in Africa. Like the Wu and Rangel amendment, the American people will be denied the right to hear the gentlewoman from California's amendment.

How the majority is not embarrassed to bring such a rule to the House floor is simply beyond my comprehension.

Setting aside for a moment the gross problem with this rule, there are significant concerns related to the underlying bill.

Mr. Speaker, I am disappointed that the Trade Promotion Authority, formerly Fast Track, legislation completely ignores the legitimate concerns many people have raised about the negative impact of current trade policies on working families, the environment, family farmers, consumers, small- and mid-sized businesses, people of color and women here in the United States and around the world.

At a time when more than 700,000 layoffs have been announced since September 11, more than 2 million Americans have lost their jobs this year; and on the heels of the largest bankruptcy filing in the history of our country, where thousands more will soon receive a pink slip, the other side of the aisle is coming to the floor today to lay the foundation for the loss of hundreds of thousands of jobs by more Americans in the immediate future.

To top it off, just a short while ago this body reauthorized funding for trade adjustment assistance in anticipation of imminent job losses from future trade agreements.

□ 1215

Talk about a self-fulfilling prophecy.

You see, Mr. Speaker, today we are not voting on one trade agreement versus another. Rather, we are voting on giving the President open-ended authority to go ahead and commit the United States to trade agreements without allowing Congress substantive consultation on the specifics of the agreement. To provide this open-ended authority to the President without requiring that environmental and labor standards be included in any trade agreement is nothing short of hammering another nail in the coffin of hundreds of American industries nationwide.

I support free trade. I was told last night in the Committee on Rules meeting that the manager's amendment will protect agriculture; that it will protect sugar in my State. Well, it did not. I have in the past, and will again, support free trade. However, any free trade agreement must be a fair trade agreement.

It is outrageous to expect the American agricultural industry to compete with South American, Central American, or Asian agricultural industries who are not required to pay their workers a minimum living wage and are not held to the same environmental standards as farmers here in the U.S.

Don't believe me? Look at what NAFTA did to my home state of Florida, specifically the agriculture industry. From citrus to sugar and from rice to tomatoes, Florida's agricultural industry has lost thousands of jobs as a direct

result of NAFTA. While Mexican farmers have profited, companies have closed and Florida no longer have jobs.

The President has made it no secret that the first thing he will do with fast track authority is to move forward with the Free Trade Area of the Americas agreement. The FTAA agreement, as currently written, could result in Florida's citrus and sugar industries, along with fruit and vegetable industries nationwide, ceasing to exist. South American farmers who pay their workers pennies and do nothing to preserve the land they grow or the environment they pillage, could wipe out the U.S. agriculture industry before we know what hit us.

As I mentioned at the outset and for the reasons just explained, I oppose adoption of this rule.

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

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules, and an architect of this important legislation.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule. This is a fair rule. Yes, it is a closed rule, but this rule is about procedure. My colleagues are either for granting the President Trade Promotion Authority or they are against granting the President Trade Promotion Authority. So I do not know what all this argument is about all these other issues.

Yes, we have worked long and hard to fashion a package. The gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, and a wide range of people on both sides of the aisle have worked on this issue, and now we have come down to the point where Members of Congress will have to make a choice. They will either vote ''yes'' to give the President authority or they will vote ''no,'' and that is what this rule provides us with the opportunity to do.

It is very fair, it is very balanced, and it is, quite frankly, the way rules that have addressed trade issues in the past have been addressed. So this is nothing new. When our friends on the other side of the aisle, Mr. Speaker, were in the majority, this is exactly the way they moved the rules dealing with trade issues. And so we have learned from you all so well. So we are following your model to a T here, and thank you very much for setting the example for us.

Mr. Speaker, we all know that last week we learned with absolute certainty that our economy is faced with economic recession. It is a great difficult time for many of us. Many of our fellow Americans have been laid off. There is a great deal of suffering taking place. We are all aware of that, and we know it was dramatically exacerbated following September 11. What we are about to do, Mr. Speaker, I believe, may be one of the most important things that can help us turn the corner for those Americans who are suffering today.

What is it that trade agreements mean for America? They will provide and have traditionally provided targeted tax relief to America's working families by giving them access to high-quality products at low prices. They create better, higher-paying jobs by prying open new markets for America's world-class goods and services around the world. And we know that those involved in the area of exports traditionally earn between 13 and 18 percent higher income levels than those goods that are produced simply for domestic consumption here in the United States. So by prying open new markets, we create opportunities for higher wage rates for American workers.

They also provide that very important and powerful link between nations who want to participate peacefully in the global marketplace. And, Mr. Speaker, I believe that every shred of empirical evidence that we have leads us to conclude that American exports and American trade provide us the opportunity to do one of the most important things that we can, and that is export our western values throughout the world.

We know that as we deal with this challenging war against terrorism, trying to expand economic opportunity so that people have choices will go a long way towards dealing with this issue. The global leadership role that the President has played, especially since September 11, has been heralded by Democrats and Republicans alike. And I believe that this tool which we are on the verge of giving him will be able to go a long way towards effectively dealing with this issue.

This is a positive, very positive rule. It is a good bill. My colleagues should join in strong support of it, and I thank my colleague for yielding me this time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from New York (Mr. RANGEL), the dean of the New York delegation and a 27-year-member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I take the floor in opposition to the rule. And I regret that the distinguished chairman of the committee has left the floor, because I do believe that, being in the minority, that the Committee on Rules has been extremely fair in giving Democrats an opportunity, not to pass anything and not to get any votes from them, but at least to give us the opportunity as the minority to have our views heard.

This bill has been called a bipartisan bill. And you can call it bipartisan all day and all night, this year and next year, but you can put wings on a pig and he cannot fly. This is not a bipartisan bill. Bipartisan means, to the chairman of the Committee on Ways and Means, walking down the hall with RANGEL and giving him an opportunity to talk about trade. If I miss that, then I miss the bipartisanship.

This was never discussed in the subcommittee, it never was discussed in the full committee, never discussed with Democrats, but there were meetings with two Democrats with the chairman. And he concluded after those conversations that ended compromise, that ended discussion, and that was the end product.

Now, we are used to that on the Committee on Ways and Means, because my chairman truly believes that he was violated by former chairman Dan Rostenkowski, and he is going to spend the rest of his legislative career making us pay for it. That is okay. We all understand that and we will work with it. But we always thought the Committee on Rules was different. We always thought the Committee on Rules knew that they were in the majority, the Republicans; they had the votes, so they at least would let us have an opportunity to express ourselves.

We know that we have the constitutional responsibility to deal in trade, but we know it is the President, like the head of any State, that has the responsibility to do it. But when you delegate your responsibility, there should be some checks, there should be some balances, there should be some credibility as to what you are doing.

We know Republicans are concerned about labor standards. They do not support slave labor and child labor. They would like people to organize. We believe that we would not want foreigners to have a better opportunity in investment than Americans. We believe Republicans truly believe that the Congress should not just be consulted but should protect its constitutional right to make certain that foreign organizations do not destroy the laws that we have.

But just to be so afraid that we will be heard because you do not have the votes or you have not bought enough votes or you do not have enough vehicles to talk about what you are going to give in some other field that you do not even give us a chance to tell you that we believe let us have TPA, let us have fast track, but we think there is a better way to do it.

Why would you not give the gentleman from Michigan (Mr. LEVIN) an opportunity to show you what we have worked on? Is he someone that is a protectionist; someone that stood up to the United Auto Workers in Detroit; someone that we would not have had a bill with China had he not worked with the gentleman from Nebraska (Mr. BEREUTER)? You know it and I know it.

What about the gentleman from California (Mr. MATSUI)? He worked so hard for NAFTA, the North American Free Trade Agreement. Who can deny that this man has dedicated his life to free trade?

What about the gentleman from Washington (Mr. MCDERMOTT)? He will not be able to be heard on the bill that we crafted; someone that opened the doors for trade with sub-Saharan Africa?

Are you so afraid of another view, are you so frightened that we will be heard and that you would lose some of the votes?

And then this terrorism thing. How dare people say that we are not fighting the war against terrorism because we do not do what the gentleman from California (Mr. THOMAS) says that we should do. Fighting the war against terrorism, the President says, requires a bipartisan approach. It means that it is not chairmen who run and rule; it is bipartisanship, Democrats and Republicans working together, working their will, and presenting something to us.

But I tell you this: If you really believe that doing the right thing with unemployment compensation and doing the right thing with health, when you have not done the right thing all year, that you are going to pick up some votes in doing it, and for those people who do not like the bill but are concerned about the crises and the hardships of people who have lost their jobs, and they are going to take a promise from the majority to trust them, vote for this bill and they will do the right thing for health insurance, if you believe that, I have a great bridge in Brooklyn I would like to discuss with you.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume to comment that listening to the comments of the dean of the delegation from New York, and listening to his remarks as the ranking member of the Committee on Ways and Means, ranking minority member, there are a lot of views to life. I have this glass of water. Some would say that it is half empty. I prefer to look at it as half full.

I do not know that any of us totally have an exact definition of what bipartisanship is. This is an up-or-down vote. This is not a Republican or a Democrat issue. We are either for free and fair trade and giving the President the authority to enter bilateral agreements or we are not. That is what that rule is about, to bring the bill to the floor and vote it up or down.

I look at it as bipartisanship, the same way I look at this half full glass of water that is on this table. There are six sponsors, three Democrats, three Republicans. About as bipartisan as I have seen anything be around here, with the gentleman from California (Mr. DREIER), the gentleman from California (Mr. THOMAS), the gentleman from Illinois (Mr. CRANE), the gentleman from California (Mr. DOOLEY), the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Tennessee (Mr. TANNER).

I hope that the Members, as they come and listen to this debate and as they cast their vote, will see that it is, once and for all, a simple rule that gives us the opportunity to vote for a decision to give the promotion authority to the President and have free and fair trade or we do not.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. DIAZ-BALART), a member of the Committee on Rules.

Mr. DIAZ-BALART. Mr. Speaker, I thank my friend from New York for yielding me this time.

Mr. Speaker, this is a crucial moment, a crossroad for democracy in the Western Hemisphere. I recognize that there are legitimate concerns anytime Congress cedes authority granted to it by the Constitution. I, in fact, opposed granting President Clinton this authority. I did not trust him. But I trust President Bush. I voted last night in the House Committee on Rules to grant the President Trade Promotion Authority, and I will do so today as well on the House floor.

We have a unique opportunity to strengthen democracy in the Western Hemisphere. Nations in this hemisphere are facing numerous challenges that threaten their fledgling democracies, including narco-trafficking and terrorism. One of the surest ways to support democracy in our hemisphere is by facilitating the emergence of a common market of the Americas, the free trade area of the Americas, the FTAA. I strongly support free trade among free peoples; free trade among free peoples is good economically and it is ethical.

An FTAA that incorporates a strong, enforceable democracy requirement is the best hope for protecting unstable democracies and for exporting it to where tyranny now reins.

The European Community, now the European Union, insisted on democracy as a requirement for membership, and that contributed directly and effectively to the democratization of Spain and Portugal after the deaths of dictators Francisco Franco and Antonio de Oliveira Salazar in the decade of the 1970s.

The Declaration of Quebec City of April 2001, from the most recent Summit of the Americas, the process, Mr. Speaker, leading to the FTAA, made a similar commitment to democracy: The maintenance and strengthening of the rule of law and strict respect for the democratic system are, at the same time, a goal and a shared commitment and are an essential condition of our presence at this and future summits, all of the democratically elected heads of State in the hemisphere stated in April in Quebec. Consequently, disruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process.''

□ 1230

The Summit of the Americas process is clearly headed in the right direction, but strong leadership by the United States is needed to make democracy in the entire hemisphere a permanent reality. Without Trade Promotion Authority, President Bush would not be able to achieve an FTAA with a strong democracy requirement. Accordingly, it is crucial that we pass Trade Promotion Authority for the President today.

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

Mr. Speaker, I remind the gentleman from Florida (Mr. DIAZ-BALART) that certainly he remembers after NAFTA we lost considerable jobs in the State of Florida; and with the Free Trade Area of the Americas agreement, the likelihood is that can occur again.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, the notion that the U.S. has been standing still in trade is nonsense. Africa, CBI, Jordan, China, NTR, Cambodia, in the last few years, indeed, globalization is here to stay. The main issue today is not free trade versus protectionism. That is an old label for a new bottle of issues.

This is primarily a debate among supporters of expanding trade, whether to shape trade policy to maximize its benefits and minimize its losses. Supporters of the Thomas bill believe no. Essentially more trade is always better whatever the term, so they are comfortable with providing vague negotiating objectives, running away from issues like labor and the environment and leaving Congress in essentially the role of a consultant.

This is not time for a one-dimensional approach. It is a new world, new nations, expanding issues. For example, on core labor standards, the Rangel approach is clear and effective, a principal negotiating objective, increasingly enforcing ILO core labor standards. Thomas, each nation is essentially left on its own no matter how inadequate its laws. And the manager's amendment that was suddenly introduced last night only makes it worse, leaving a weak provision essentially powerless in its enforcement.

On investment, the Rangel bill is clear and unambiguous. No greater rights for foreign investors. The Thomas bill dances around this issue.

Then on the role of Congress, those of us who see the need to shape trade want to ensure an active and ongoing role for Congress. This is a necessary corollary of the fact that trade is more important than ever. The Thomas bill only enhances the role of Congress as a consultant, tracking the Archer-Crane language of 3 years ago.

The manager's amendment tried to beef this up by saying any Member can put forth a resolution to withdraw Fast Track; but it only reaches the floor if it goes through the Committee on Ways and Means and the Committee on Rules.

In this and so many other ways, the Thomas bill sometimes talks the talk, but does not walk the walk. We can and must do better: expand and shape trade. Fast Track authority is a major delegation of authority. We should do it the right way. Thomas does not do

so. Rangel does. Vote ''yes'' on Rangel and vote ''no'' on Thomas.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I rise today in strong support of the Bipartisan Trade Promotion Authority Act, and this is why: 95 percent of the world's population is outside of the United States. It is critical that we give the President the tools he needs to open up markets all across the world for our goods and services. By increasing America's export markets, we will increase the number of high-paying high-tech jobs in the United States.

A good example of that is the Recoton Corporation in central Florida, which is the Nation's largest consumer electronics manufacturer in the area of car stereo speakers. Recoton's president, Mr. Bob Borchardt, is also the chairman of the Electronics Industry Alliance.

Mr. Borchardt tells me that only 10 percent of his company's sales are outside of North America, and that passing Trade Promotion Authority will help open up foreign markets and will result in his company creating many new jobs in central Florida.

Mr. Speaker, now is not the time to isolate America. Let us pass TPA and give our economy a much-needed boost.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Oregon (Mr. WU).

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

Mr. WU. Mr. Speaker, I rise today as a former technology and trade attorney. I have negotiated international trade agreements. I am in favor of international trade, and we do need to build a stable consensus in favor of international trade. But from my personal experience, I know that there are winners and there are losers in trade; and we must work to ensure, to ensure, that this rising tide of international trade truly lifts all boats instead of leaving some behind. This requires meaningful protection of the environment, of labor rights, and most importantly to me, of human rights. This bill, the Thomas bill, does not do so. I reluctantly oppose the bill.

Mr. Speaker, we proposed amendments to improve this bill last night. They were all rejected by the Committee on Rules. Therefore, I strongly oppose the rule under which this bill is considered.

With respect to the environment, I call Members' attention to page 18, section 2(b)(11)(B) of this bill. It constitutes a huge loophole. This bill is literally a Trojan horse with respect to the environment. There is no meaningful protection for the environment in this bill. The manager's amendment exacerbates this problem, and I quote from the manager's amendments, ''No retaliation may be authorized based on labor standards and levels of environmental protection.'' I think the language speaks for itself. This bill is a Trojan horse with respect to the environment.

With respect to some other basic rights, such as Americans knowing what they eat, I call Members' attention to page 14, section 2(b)(10)(viii)(II). This takes away our right to know what we eat. The amendment that the gentlewoman from California (Mrs. BONO) passed earlier this year would be eviscerated by this particular provision. The chairman would undoubtedly say it would be based on good science. I think this would be the kind of science that we get from the cigarette companies who have yet to find a real scientific link between cancer and smoking.

Finally, my core issue of human rights. Who will speak for those who are in jail or who are intimidated into silence if we do not? There are temporary trade advantages in suppressing human rights. Mussolini made the trains run on time, and making the trains run on time can temporarily benefit an economy. But in the long term, democracy and human rights are both good for individuals and they are good for business because complex societies, it is like geology when tectonic plates come against each other: that energy can be released in little earthquakes that are barely felt. We call those elections. Or we can permit those plates to lock up and have cataclysmic earthquakes. We call those revolutions. Revolutions are always bad for business.

Good human rights is good business for the long term, but there are temporary advantages to be had by the suppression of human rights. When we have a bill which promotes trade and protects human rights, I will support that bill. That day is not today.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), who has worked diligently to help make this legislation come before the House.

Mrs. BIGGERT. Mr. Speaker, I rise in support of the rule on H.R. 3005 to grant Trade Promotion Authority. Few are the occasions on which Members of this body have the opportunity to shape the course of our long-term economic future as we have on this TPA vote today.

Without TPA, America will be forced onto the sidelines, watching as other nations form agreements which shut our products and services out of the most promising new markets. Without TPA, America will see its role as world leader transformed into world follower. Even our most innovative and successful companies will find themselves making a back seat to foreign competitors.

What is at stake here are the lives and livelihoods of current and future generations of American workers. Their productivity and creativity are second to none, and yet second to all this is what we will be if we tie the hands of our President. Let us untie the hands of the President, allowing his negotiators to bring home the best deals for America. I urge Members to support the rule and TPA.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, this is a very critical issue. We are arguing the rule. I want both sides to know these are the rules of the Constitution of the United States. Article 1 section 8 is very clear. In the last 20 years this Congress has given up its powers to the executive branch of government. We have had folks on the other side talk about it. It is very clear what article 1 section 8 says about what our responsibilities are.

In the movie ''Thelma and Louise,'' Thelma turns to Louise and says, ''Don't settle.'' We are settling here. We are settling for an erosion not only of the Constitution of the United States, an erosion of labor rights, an erosion of environmental security, an erosion of our trade imbalance which has risen to $435 billion, a $62 billion erosion according to NAFTA itself. We are making a big mistake if we vote ''yes.''

This is not a question of to trade or not to trade; this is a question of having the right rules at the right time. I ask Members to read article 1 section 8. Did constituents send Members here to give up their responsibility to the President of the United States on trade issues? Then change the Constitution. Change the Constitution is my recommendation if that is what Members wish to do.

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

Mr. Speaker, in listening to that debate, I would just reflect that there was a time when the Nation could boast that we were the world leader in shaping those rules for international trade and globalization and open markets. Sadly, this is no longer the case.

In my opening remarks I also reflected that each President from President Nixon to President Clinton had this authority, and that it was important to look at giving our sitting President the same authority, for the simple fact that while we would give the ability to negotiate, the gentleman from New Jersey (Mr. PASCRELL) would know full well that this Congress, and future Congresses, under its authority that would be given to the President, would cast a vote for each and every agreement as our Constitution protects, and any rules that may be there. It is clear that this Congress will ratify any of those agreements. The authority would allow the President to enter into those bilateral agreements.

Mr. Speaker, we are behind. There are 130 regional trade agreements in force today with only three in the United States. Mexico has 28. The European Union has 27 with other countries. It is important that we move forward to protect our jobs and grow our jobs and treat the opportunity of the

global economy as the United States marketplace.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

□ 1245

Mr. PENCE. Mr. Speaker, I thank the distinguished gentleman for his leadership and for yielding me time, and rise in strong support of the rule and of the Bipartisan Trade Promotion Authority Act today.

Mr. Speaker, I believe the question before this House, and, in many ways, before America today, is who do you trust? Do you trust the shuttered version of America that says that we will keep our own rules and we will keep to ourselves and we will maintain our place in the world, or do you trust the American worker and do you trust the American President at such a time as this?

Well, I stand today to say that I trust the American worker. The great American companies, large and small, when given an opportunity to compete in the world, not only, Mr. Speaker, do we compete, but we win, and we win consistently.

We know in Indiana that trade means jobs, $1.5 billion from this relatively small midwestern State in agricultural goods alone last year, supporting 24,000 jobs on and off the farm. And it is not only good for big business, as some on the other side might say. Ninety percent of exports in this country come from companies with less than 500 employees, and for every $1 billion in increased exports, Mr. Speaker, we create 20,000 new jobs here in America that pay an average of 17 percent more than similar jobs in the domestic economy.

I trust the American worker to compete and to win. But I also rise today to say that I trust the President. Along with more than 80 percent of the American people today, I trust President George W. Bush to put America's interests first in the world, to put American jobs, to put America's security, to put American agriculture, manufacturing, steel, all of the rest on the international negotiating table first.

I believe this President, particularly this fall, has earned our trust and earned our respect, and I urge all of my colleagues, trust the American worker, trust the American President; vote yes on the rule and the bipartisan Trade Promotion Authority.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself 15 seconds to remind the gentleman from Indiana (Mr. PENCE) that American workers cannot buy food with trust and cannot pay mortgages with trust. Certainly none of us distrust the President. I trust the American worker, but the American worker has a problem having jobs under the lack of consultation that we provide here.

Mr. Speaker, I yield 3 minutes to the distinguished ranking member, the gentleman from Texas (Mr. FROST), a person that has done an outstanding job not only on trade, but on the Committee on Rules, in trying to provide fair and open rules for all the Members of this body.

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

Mr. Speaker, since September 11, the world has watched this Nation, from the President and the Congress to the U.S. military abroad and the American people here at home, pull together to wage war on terrorism.

Unfortunately, America's desperately needed economic recovery has been a different matter. Our economy has been in recession since March, long before September 11, according to the experts. Millions and millions of people are unemployed across the country. In the past few months alone, hundreds of thousands of hard-working Americans have lost their jobs.

Meanwhile, just months after Republicans passed budget-busting trillion dollar tax breaks, the administration is now admitting that the surplus it inherited is gone and America now faces years of growing debt, threatening priorities from Social Security and Medicare to homeland security and affordable health care.

How have Republican leaders responded to this problem? With billions of dollars in tax breaks for big corporations, leaving just crumbs for laid-off workers. And today, Mr. Speaker, Republican leaders are using the House to play politics for the 2002 elections. Instead of helping American workers, Republican leaders are trying to help their own fund-raising.

Do not take my word for it, Mr. Speaker. The Chairman of the Republican Campaign Committee spelled it out in the Washington Post a few days ago. For Republican leaders, he said, this Fast Track bill is about fund-raising. It does not matter, he bragged, whether this bill passes or not. Just as long as they can use it to help the Republican fund-raising, then they will be happy.

So Republican leaders have written a Fast Track bill that shortchanges working Americans from coast to coast. They have written a bill that does not protect the environment, and they have written a bill that represents a dereliction of duty by Congress, an abdication of our responsibility to protect the people we represent on issues from food safety to telecommunications.

Mr. Speaker, Democratic leaders on trade fought valiantly for a bipartisan approach that protects American workers. The gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means, and the gentleman from Michigan (Mr. LEVIN), the ranking member on the Subcommittee on Trade, tried over and over to work with Republican leaders, but their overtures were rejected because Republican leaders wanted a political issue, not a bipartisan bill. And when the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) wrote a Democratic substitute, Republican leaders refused to even let the House vote on it. Thus, Mr. Speaker, did Republican leaders drive a stake into any hope of bipartisanship on trade. Indeed, there should be no doubt about how we got to this point. Republican political gamesmanship has put Fast Track trade authority in jeopardy.

Mr. Speaker, the American people deserve better. Reject this rule and force Republican leaders to sit down and work with Democrats. That is the only way Fast Track will ever get the broad bipartisan support it needs, and it is the only way we will ever achieve fair and free trade that benefits American workers.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman from New York for yielding me time.

Mr. Speaker, I rise in support of this rule, because I support lower taxes on working Americans. Tariffs are essentially taxes that foreign countries impose on our products. You pay them whenever you pay taxes to support unemployment benefits for American workers, because foreign taxes that discriminate against the United States' goods put American workers out of work.

Millions more Americans could go to work in manufacturing and in services if tariffs and trade barriers imposed by foreign countries were reduced or eliminated. Of course, America's tariffs on foreign goods and our trade barriers on goods and services are essentially zero on most of what we consume in this country, so trade negotiations aimed at reducing tariffs and trade barriers work strongly in our favor. They mean big gains for American consumers and American workers.

There are many colleagues who have concerns about how future trade agreements will address issues such as sovereignty, environmental and labor protections, dumping and other unfair trade practices. But under this legislation, Congress will get to vote on any final trade agreement before it would become binding on the United States.

This legislation simply authorizes President Bush to negotiate in America's behalf, an authority that Congress has granted to every President from Nixon to Clinton.

Please vote ''aye'' on this rule to bring Trade Promotion Authority to the floor, so that we can give President Bush and America a chance to cut foreign taxes and help American workers and consumers.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my very good friend, the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. Speaker, Fast Track trade authority is an extraordinary concession of congressional authority in four critical areas to regulate and oversee the

terms of trade. One vote, 62 pages, no amendments, 2 hours of debate.

Now, if the United States had a successful trade policy giving this President, or any President, a blank check to perpetuate and expand NAFTA into the FTAA and enhance the powers of WTO, well, that might make some sense. But the current system is failing miserably. We are not talking about that here on the floor today, are we?

Last year a record $435 billion trade deficit, 4.5 percent of our GDP. Many economists say that is unsustainable. 1994 to 2000, accelerated job loss due to trade. The current system discriminates against American labor, reduces living wages, safe working conditions, eviscerates environmental protections and consumer protections. But the gentleman from New York would somehow say it is necessary to compete in the world economy.

President Clinton negotiated 300 separate trade agreements: two under Fast Track trade authority, 298 without it. And, unlike my colleague from the other side who preceded me and said he opposed this under the last President but will vote for it now, I am going to vote on policy and principle, not politics and personalities. It was a bad idea for President Clinton; it is a bad idea for George Bush.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

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

Mr. KIRK. Mr. Speaker, I rise in strong support of the rule and Trade Promotion Authority. I wish that opponents of free trade had as much faith in our workers as our military. As our forces fight and win in Afghanistan, opponents of free trade say Americans cannot win in business. Americans are not losers. We are winners, and we need only a chance to compete to win.

TPA will also lower international import taxes on Americans. As we start holiday shopping, we pay import taxes on backpacks, shoes and other clothes for the kids. TPA lowers these taxes, and, in sum, will put $1,300 in the pockets of American families.

If you like paying import taxes to other countries, vote against free trade. If you think Americans can compete and win, support Trade Promotion Authority for our President.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my very good friend, the gentleman from Ohio (Mr. BROWN), the former Secretary of State of the State of Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from Florida for yielding me time.

Mr. Speaker, 2 months ago Republican leadership and the gentleman from California (Mr. THOMAS) promised us if we voted for money for New York City, then they would help unemployed workers. They never did.

Then Republican leadership and the gentleman from California (Mr. THOMAS) promised us if we bailed out the airlines, then they would help unemployed workers. But they never did.

Then Republican leadership and the gentleman from California (Mr. THOMAS) promised if we passed the stimulus package and gave huge tax cuts to the biggest corporations in America, then they would help unemployed workers. But they never did.

Now the gentleman from California (Mr. THOMAS) and Republican leadership are promising us if we vote for Trade Promotion Authority, then they will help unemployed workers.

Mr. Speaker, when will we ever learn?

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CHAMBLISS).

Mr. CHAMBLISS. Mr. Speaker, I rise in strong support of this rule and in support of the underlying bill, but I do so only after a couple of concerns that I have had with respect to our trade policy in this country have been addressed. Those two concerns are trade issues dealing with agriculture and trade issues dealing with the textile industry.

American agriculture and the American textile industry have been the whipping boys of previous trade agreements. We have been in difficult times in agriculture all across this country, but I am very satisfied with the language that has been put into this bill with respect to American agriculture and how our farmers are going to be treated. That language says that the House Committee on Agriculture and the Senate Committee on Agriculture are going to be direct participants in the discussions about issues relating to agriculture with respect to future trade agreements under this Trade Promotion Authority. That is the first step in the right direction that we have seen for American agriculture when it comes to trade in decades.

With respect to the textile industry, again, we have seen jobs moved to the south, jobs that cannot be replaced in the American workplace. We have never had the issue of textiles addressed in our trade agreements in a positive manner, but yesterday at a meeting at the White House, the President made a personal commitment that he is going to be sure that the textile industry does get fair treatment in any negotiated agreements from a trade perspective under this authority that he is asking for.

That is all we can ask. If we do not have that, if we do not have that, where is the American textile industry going today? It is going to continue to go south, and we do not need that to happen.

We have had thousands of jobs in my great State lost, particularly in my district, that have been lost over the last 7 to 10 years in the textile industry. We cannot afford any more of that. The way we ensure that does not continue to happen is that we have positive trade agreements and provisions in those trade agreements that are positive with respect to textiles and agriculture.

Mr. Speaker, I urge strong support of the rule and I urge support of the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to the very thoughtful new Member of Congress, the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I rise today in opposition to the rule. Fast Track trade authority affects every single American, and they probably do not even know it. We import millions of tons of food into this country. That is a lot of food. In 1993, 8 percent of imported fruits and vegetables were inspected.

□ 1300

Since NAFTA, the number is now .7 percent. That is a 91 percent decrease in the inspections of fruits and vegetables that our children consume every day.

Minnesota families believe that meats, fruits and vegetables that they buy comply with our food standards. In these trade agreements there are no food standards; there are none. We buy strawberries and grapes tainted with pesticides that are illegal to use in this country. Congress passes food safety standards and the President's negotiators trade those standards away because, in their eyes, food safety is a barrier to free trade.

Mr. Speaker, this rule makes in order an up or down vote on Fast Track legislation that would forfeit all of the authority of Congress to directly participate in international trade agreements. Congress needs careful, deliberate negotiations on future agreements, not a fast track.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of the rule and of this bill.

Just to give my colleagues an idea of how driven and dependent our national economy is on international trade, one need not look any further than my home State of New Jersey. Last year, New Jersey posted the eighth largest export total of any State in the Nation with a total of $28.8 billion being sold in export merchandise. This is up more than 38 percent since 1997. Those exports are shipped globally to 204 countries around the world. Most importantly, out of New Jersey's 4.1 million member workforce, over 600,000 people statewide, from Main Street to Fortune 500 companies, are employed because of exports, imports, and because of foreign direct investment.

Agilent Technologies, a company in my congressional district, recently wrote me in support of Trade Promotion Authority. They said, ''Multilateral trade initiatives important to

Agilent relating to tariff reductions, e-commerce, biotechnology and international standard-setting are now beginning.''

Mr. Speaker, we need to participate. We need to support the rule, and we need to support the bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Ohio (Mr. KUCINICH).

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

I rise to oppose this rule and to oppose Fast Track. I come from Cleveland, a steel-producing community which is fighting valiantly to save 3,200 steelworkers' jobs and to protect the benefits of tens of thousands of retirees. But Fast Track is a barrier. Fast Track brought us NAFTA. It prohibits amending trade agreements. We could not amend NAFTA chapter 11, which grants corporate investors in all-NAFTA countries the right to challenge any local, State, or Federal regulations which those corporations say hurt their profits; and then they are able to get penalty money from the taxpayers of this country.

The sovereign authority of all governments is at stake. Taxpayer dollars are at stake, even when we stand up for our own rights.

A NAFTA case brought by a foreign-owned steel fabricator company is trying to overturn. Get this, they are trying to overturn ''Buy America'' laws that require using American steel in highway projects. NAFTA allows foreign-owned companies to challenge our Constitution, our Congress, our right to enact American laws. This would have a catastrophic impact on steel workers, causing loss of U.S. jobs. American taxpayers are financing the fight for democracy all over the world, while our trade laws undermine our democracy here at home.

Vote against this rule and vote against Fast Track. Protect democracy. Protect American jobs.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE).

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

Mr. KOLBE. Mr. Speaker, I rise in strong support of this rule for Fast Track consideration of Trade Promotion Authority. Mr. Speaker, this is not about citrus, it is not about steel, it is not about food inspection or any other product or any other service. It is about whether or not we believe we should have enough confidence in the President of the United States to go on the world stage with other negotiators to implement the trade agenda that was launched at Doha.

Now, in Doha where they set the agenda for the next round of talks, we got a set of negotiating issues that was extraordinarily favorable for the United States. It is everything that we could hope for in terms of what we want to accomplish in the next round of talks. Now we have to move to the next step. We cannot complete that unless the President has trade negotiating authority. We can never complete the talks, and yet, we are on a fast track with this round of talks. No organization, no country is going to put their best deals on the line if they think they are going to be changed by the United States Congress. Management and labor do not go into negotiations and then go back to their board of directors and their membership to amend the agreement; they submit it to them for a vote.

That is what we are talking about doing here with Fast Track. It is not about whether or not we like the agreement, because we do not have an agreement. The opportunity to consider that will come later.

One prominent Democrat from the Clinton administration, who would be known to every Member of this body, just 2 nights ago at a dinner told me that the framework legislation that is proposed here today goes much further than President Clinton or President Gore would ever have been able to offer. It goes a long way. It makes the environment and it makes labor rights principal negotiating objectives to support those. We need to have the confidence in our President to get this job done, and we do not compromise our ability to say yes or to say no to any agreement that is negotiated.

With the crisis that we face in the world, this is not the time to say that our President should not be able to move forward to protect American interests abroad, American economic interests. Agree to this. Say yes to Trade Promotion Authority.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS), my very good friend.

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

I rise to oppose this rule and this bill. H.R. 3005 supports the expansion of trade rules that allow pharmaceutical companies to challenge countries that distribute essential medicines to people who desperately need them. This bill would make it more difficult for developing countries to make HIV–AIDS medicines available to people with AIDS. Twenty-five million people are living with AIDS in Africa. Our trade policy should not cost them their lives.

This bill would also make it more difficult for the United States to respond to bioterrorist attacks. When the United States needed to acquire a large supply of the antibiotic Cipro to respond to the recent anthrax attacks, we knew that the health of the American people was more important than the profits of pharmaceutical companies. We had to get tough. The WTO could have ruled against us. Our trade policies should preserve our ability to respond to bioterrorist attacks in the future.

I offered an amendment to restore the rights of all countries to protect public health and ensure access to essential medicines, but my amendment was not made in order.

I urge my colleagues to vote ''no'' on the rule and ''no'' on the bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I say to my colleagues that we still have an opportunity to do what the President would have us to do. Sure, he wants Trade Promotion Authority, but he also wants bipartisanship. I think it is good for the Congress. I think it is good for the country. All of my colleagues know that we have not enjoyed this within the Committee on Ways and Means. That is what the Committee on Rules is all about.

The Committee on Rules is the legislative traffic cops. They can set us straight. They can shatter the wounds of partisanship that have been built up.

Since the attack on the United States of America, we have worked together, not as Democrats and Republicans, but as a united Congress. They can reject this rule and send us back to the table. They can tell the Committee on Ways and Means to have open negotiations. They can say that the Democratic ideas are just as patriotic, just as sincere, and that we support the war against terrorism the same as Republicans. If they do not do that, if they do not give us an opportunity to be heard. What they are saying is, it is our way or it is the highway.

I do not think it is fair. We have a stimulation package that we are working on, and we are trying to give the President what he wants in order to spur the economy. We are not supposed to do it as Republicans and Democrats; we are supposed to come together as responsible Members of Congress.

So I ask my colleagues to vote against this rule. It is not well thought out. It should not be just one-sided. Give us an opportunity to work together and to bring a product to our colleagues; and if we cannot do it, then at the very least, let there be an alternative for Members to vote for.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

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

Mr. LINDER. Mr. Speaker, I have a whole raft of information from my staff talking about the benefits of trade and the economy, on jobs; and I will submit that for the RECORD. But let me just raise a confusing question. Why in the world does this House want to take itself out of the picture?

Absent TPA, we have no voice. The President negotiates with any nation

in the world a trade agreement and brings it to the Senate as a treaty for their approval or disapproval, amendment or no amendment. If it is amended, it goes back to the other nation, and they have to negotiate a second time. I would not blame any executive of another nation to not want to deal with us, to have to go through two negotiations.

This House claims to be concerned about such things as labor and environment and human rights. Failing to pass TPA takes us out of the picture. We are silent. We have no voice.

Under TPA, the President can go to any nation, negotiate any agreement, and bring it back to the House and the Senate for an up or down vote. If we do not like the agreement, we can vote it down. If we do not like the lack of consultation, defeat it. But at least keep us in the game. Absent TPA, this House is silent.

Mr. Speaker, I do not understand how we are going to shape any future agreement, have any consultative effect, if the President just chooses to go to treaties and deals with the Senate. We need to get in the ballgame. We have the lowest tariffs in the world. Reaching trade agreements with other nations simply serves to lower their tariffs and open markets for our companies to sell into the global economy. We need to be in the global economy, where 95 percent of the citizens of the world live, not here. I cannot understand why some would want to take us out of the picture.

Mr. Speaker, the only voice the House has on any trade agreement is if we pass authority for the President to reach agreements and bring them back to us for up or down votes. I cannot imagine why anyone would oppose this.

Mr. Speaker, I rise in support of the rule. Today we have a tremendous opportunity to stimulate the economy, secure jobs, uplift the poor, improve wages, and prove our global competitiveness. With a single vote, we can change the course of millions of lives.

America produces many of the highest quality services, the most bountiful crops, and the most advanced technologies in the world. Today, we have the opportunity to ensure that all of these are shared with foreign nations.

Trade is also vital to our own national well-being and our economic recovery. Nationwide, one in ten American jobs depends on exports. These jobs are in a range of industries and service fields, and yet the one consistency among them is that they pay more than jobs in non-trading industries. According to the Department of Commerce, trade-oriented industries pay one-third more—approximately $15,000 more per employee—than non-trading industries.

Recent studies have further shown that if global trade barriers were cut by one-third, the world economy would increase by more than $600 billion a year. Eliminating trade barriers altogether would increase the global economy by nearly $2 trillion. The infusion of this much capital into the world market would serve as an engine of economic growth and improve the standard of living for all Americans.

Given the significance of trade to our economic future, it is imperative that Congress pass trade promotion authority. TPA requires a collaborative partnership between Congress and the President, and both must actively participate in order to properly frame treaty negotiations. In fact, TPA statutorily requires that the President engage in frequent and substantive consultations with Congress before, during, and throughout negotiations on a free trade agreement. These consultations allow Congress to make clear its priorities and concerns, and the President then incorporates such mandates into negotiations. In return, Congress commits to an up or down vote on the treaty without amendments. While some members will argue that our opportunity for debate is stifled because of our inability to offer amendment, it is worth noting that without TPA members of the House of Representatives could neither vote on nor offer amendments to the treaty at all.

Clearly, TPA is justified, it is responsible, and it is needed—and the time for TPA is now. Tariffs in the United States are among the lowest in the world. However, we face severe restrictions when we ship our goods overseas. In fact, while the average U.S. tariff is 4.8 percent, American goods are subject to tariffs of 11 percent in Chile, 13.5 percent in Argentina, 14.6 percent in Brazil, and a staggering 45.6 percent in Thailand.

To give you one example of the anti-competitiveness of foreign tariffs, we can look at a Caterpillar tractor. If that tractor is made in the U.S. and it shipped to Chile, it faces nearly $15,000 in tariffs and duties. If that tractor is made in Canada and is then shipped to Chile, the tariff and duties are zero. Clearly, reducing foreign tariffs is critical to ensuring that companies continue to build their factories in the U.S. And TPA is the greatest tool at our disposal for leveling the playing field to provide U.S. businesses access to the world's populations.

I urge my colleagues to join me in voting for the rule and H.R. 3005. This bill will help American regain its competitiveness, enabling the rebirth of prosperity and economic security.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Houston, Texas (Mr. GREEN), my very good friend.

Mr. GREEN of Texas. Mr. Speaker, I rise in opposition to both the rule and H.R. 3005, the legislation granting the President Fast Track Authority.

This is not the time to allow more countries greater access to our domestic markets. We need much tighter controls at our borders, and we need to let the global economy recover before we even begin considering opening our doors to even further trade expansion.

Foreign countries experiencing an economic slowdown always view the United States as a place to dump their excess goods. Japan, Russia, and South American countries have devastated our domestic steel industry through dumping. This illegal trade practice eliminates the thousands of high-paying American jobs tied directly to the steel industry and the thousands who support it.

In addition, the House of Representatives has done nothing to help the thousands of displaced travel, tourism, and hospitality workers who lost their jobs as a result of September 11. Increased foreign trade automatically means a loss in good blue collar jobs which means our constituents' jobs will be on the line today.

The House of Representatives has a spotty record in protecting displaced workers, especially from the textile, agriculture, and auto industries as a result of NAFTA; and that is why I oppose both the rule and the bill.

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

Mr. Speaker, I keep hearing my colleagues talk about, come back and have an up or down vote. What part of procedural versus substantive consultation do they not understand? As a matter of fact, what part of ''deficit'' do they not understand as it pertains to our trade policy? We have not had time, because they did not give us time; and last night I asked for an additional 2 hours and was denied that time. We have not had time to talk about the fact that antitrust laws are going to change without any consultation and without any input from Members of this body.

□ 1315

We have not had time to talk about the sovereignty issues, and I hope the gentleman from New York (Mr. RANGEL) and his committee can get to that issue because it is critical.

It is clear from this bill, the underlying bill, that foreign investors have an advantage over domestic persons in the United States, and the tribunals are held in secret. As a former judge, I cannot abide that. I must have my colleagues understand that it would be inappropriate to take American property in a secret forum, and that is what this measure permits. It does not permit that the United States Trade Representative come before us.

I ask my colleagues, please, vote against this rule and vote against the underlying bill.

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

Mr. Speaker, I have heard today we should continue debating the bill, stall, or put it off; what is fair, unfair; water it down, pick it apart, and confuse the facts.

Mr. Speaker, the world is not waiting while the United States putters along. Trade Promotion Authority offers the best chance for the United States to reclaim its leadership in opening foreign markets, expanding global economic opportunities for American producers and workers, and developing the virtues of democracy around the world.

The prosperity and integrity of global democracies is at stake, and it is incumbent upon us to pull into the fast lane in order to reap the benefits of fair trade.

What we ask today is nothing new. Until its expiration in 1994, every President from Richard Nixon through Bill Clinton has enjoyed the right of Trade Promotion Authority. This President deserves that same right.

I strongly urge my colleagues to do the right thing for America: Support this rule and the underlying legislation.

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. SIMPSON). The question is on the resolution.

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

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 224, nays 202, not voting 7, as follows:

[Roll No. 479]

YEAS—224

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Andrews
Hostettler
Meek (FL)
Quinn
Roemer
Roukema
Young (AK)

□ 1342

Messrs. LUCAS of Kentucky, GUTIERREZ and EVANS changed their vote from ''yea'' to ''nay.''

Mr. SMITH of New Jersey changed his vote from ''nay'' to ''yea.''

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 against:

Mr. ROEMER. Mr. Speaker, on rollcall No. 479, the rule on Trade Promotion Authority, I was detained on the Senate side attending an education event. As a conferee on the elementary Secondary Education Act, I was participating in a public forum advocating full funding for children with disabilities. Had I been present, I would have voted ''nay.''

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 306, I call up the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements, and ask for its immediate consideration.

The Clerk read the title of the bill.

□ 1345

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 306, the bill is considered read for amendment.

The text of H.R. 3005 is as follows:

H.R. 3005

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Bipartisan Trade Promotion Authority Act of 2001''.

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in

the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; and

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 9(2)) and an understanding of the relationship between trade and worker rights.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—The principal negotiating objective of the United States regarding foreign investment is to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) providing meaningful procedures for resolving investment disputes; and

(F) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims; and

(iii) procedures to increase transparency in investment disputes.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(7) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(8) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(9) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other

mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry; and

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs.

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 3(a) or (b), including any trade agreement entered into under section 3(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(10) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 9(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(11) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(D) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(E) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(F) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(12) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 9(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(9) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994; and

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not

later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this Act applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 7 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 7; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2(a) and (b) and the President satisfies the conditions set forth in section 4.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as ''trade authorities procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an ''implementing bill''.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the

purposes, policies, priorities, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 3(c)(1)(B)(i) of the Trade Promotion Authority Act of 2001, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2(b).

SEC. 4. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement; and

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 7.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(9)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(c) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 3(b), the President shall consult with—

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

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 7.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 5, including the general effect of the agreement on existing laws.

(d) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 3(a)(1) or 5(a)(1)(A) of the President's intention to enter into the agreement.

(e) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to that trade agreement, the other House separately agrees to a procedural disapproval resolution with respect to that agreement.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with section 4 or 5 of the Trade Promotion Authority Act of 2001 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to that trade agreement.'', with the blank space being filled with a description of the trade agreement with respect to which the President is considered to have failed or refused to notify or consult.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 3(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 3(b)(2), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 5(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 4(a)(2) and the Congressional Oversight Group.

SEC. 7. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites; and

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement.

SEC. 8. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 5(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 9. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term ''core labor standards'' means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term ''ILO'' means the International Labor Organization.

(5) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in House Report 107–323, is adopted.

The text of H.R. 3005, as amended, as modified, is as follows:

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Bipartisan Trade Promotion Authority Act of 2001''.

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 11(2)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—The principal negotiating objective of the United States regarding foreign investment is to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment and, recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) providing meaningful procedures for resolving investment disputes;

(F) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims; and

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(G) providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public;

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry; and

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs.

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in

each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 3(a) or (b), including any trade agreement entered into under section 3(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources; and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 11(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(D) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(E) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(F) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 11(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(9) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this Act applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government is engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade. The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 7 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 7; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) notwithstanding paragraph (6), reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any agricultural product which was the subject of tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty, pursuant to such Agreements, was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2(a) and (b) and the President satisfies the conditions set forth in section 4.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as ''trade authorities procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an ''implementing bill''.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act; and

(B) a statement of its views, and the reasons therefore, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 3(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2001, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the

United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2(b).

SEC. 4. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight Group convened under section 7; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 7(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned; and

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 3(b), the President shall consult with—

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

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 7.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 5, including the general effect of the agreement on existing laws.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 3(a)(1) or 5(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2001 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to that trade agreement or agreements.'', with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has ''failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2001'' on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 4 or 5 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 7(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 7(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this Act.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate may be introduced by any Member of the Senate.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapprovement resolution with respect to that trade agreement has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress''.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 3(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 3(b)(2), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 5(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 4(a)(2) and the Congressional Oversight Group.

SEC. 7. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites; and

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement.

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

SEC. 8. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 5(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 9. COMMITTEE STAFF.

The grant of trade promotion authority under this Act is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 7 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 10. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 3(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2001,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 3(b) of the Bipartisan Trade Promotion Authority Act of 2001'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 3(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2001''; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 3 of the Bipartisan Trade Promotion Authority Act of 2001,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 3 of the Bipartisan Trade Promotion Authority Act of 2001,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 3 of the Bipartisan Trade Promotion Authority Act of 2001''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 3 of the Bipartisan Trade Promotion Authority Act of 2001'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 3 of the Bipartisan Trade Promotion Authority Act of 2001''; and

(ii) by striking ''section 1103(a)(1)(A) of such Act of 1988'' and inserting ''section 5(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2001''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2 of the Bipartisan Trade Promotion Authority Act of 2001''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 3 of the Bipartisan Trade Promotion Authority Act of 2001''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 11. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term ''core labor standards'' means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term ''ILO'' means the International Labor Organization.

(5) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

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

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

Any bill of this magnitude that comes to the floor will always have a history of would have, could have, should have; but what is more difficult about this bill than most is that my colleagues on the other side of the aisle have been forced to diminish the contribution from my colleague, the gentleman from California (Mr. DOOLEY), the very brave and knowledgeable members of the Committee on Ways and Means, the gentleman from Tennessee (Mr. TANNER), and the gentleman from Louisiana (Mr. JEFFERSON).

Both the gentleman from Tennessee (Mr. TANNER) and the gentleman from Louisiana (Mr. JEFFERSON) are members of the Subcommittee on Trade of the Committee on Ways and Means, that subcommittee that deals on an ongoing, everyday basis with this issue. They are among the most knowledgeable in the House. But because some of my friends on the other side are so driven to deny the President the use of this legislative tool, that somehow the fact that the gentleman from Michigan (Mr. LEVIN), working with the gentleman from Nebraska (Mr. BEREUTER), someone who is not on the Committee on Ways and Means, is to be held up as

an example of the way we should operate, but when members of the Committee on Ways and Means get together to work on this problem, that is a model to blast, to argue it is not bipartisan, to argue the product is not any good and whether they mean to or not.

I took this time at the beginning, regardless of what the vote is at the end, to thank the gentleman from California (Mr. DOOLEY), to thank the gentleman from Tennessee (Mr. JEFFERSON), to thank the gentleman from Louisiana (Mr. TANNER), and to thank their staffs. For almost 5 months we have worked on what was said to be an impossible project, to resolve the differences that drove us not to provide this power to the President previously. I voted for that. I will vote it for any President, but to trash my colleagues who are powerful enough in terms of their belief that something needed to be done, for my colleagues to carry the day by defeating this is unworthy of any Member.

Attack me, I understand it. I am one of the targets and the symbols; but do not, do not, do not derogate the contribution of those Democrats who were strong enough and who believed enough in this to work together in an intellectually honest way, to produce a product that ironically is better than any product that has ever been brought to this floor in a number of ways, which we will talk about.

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

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from Louisiana (Mr. JEFFERSON) to allocate as he sees fit.

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

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI), a senior member, one who has worked so hard on the alternative to the majority bill.

Mr. MATSUI. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), the ranking Democrat member of the committee, for yielding me the time.

Let me just say this. I am holding in my hands two volumes. These are pieces of legislation that was passed in 1994. It was to implement the Uruguay Rounds and basically put in place the World Trade Organization. I do not say this as somebody who actually produced this legislation along with my colleague the gentleman from Illinois (Mr. CRANE).

I have been a free trader for the last 23 years, since I have been in the United States Congress. I show my colleagues these documents, mainly because we took an up or down vote in 1994, after about 5 hours of debate, and passed this legislation, 5,000 pages.

The Uruguay Round, which passed 7 years ago, was basically about reducing tariffs and eliminating quotas. We had a little about intellectual property, but it was basically about tariffs and quotas.

This next round, the round that we just witnessed in Doha, the beginning of, will be a round in which we not only talk about tariffs and quotas, which will be a small part of it, but it will be about antitrust laws. It will be about food safety laws. It will be about changes in hundreds of government regulations in the United States.

The United States Trade Representative will be able to go through the back door, through the World Trade Organization, and make major changes in domestic regulations and domestic laws; and if my colleagues think these volumes are big, wait till we see 4 or 5 years from now when these negotiations are continued. We will see a volume four or five times larger than this, and we will have 4 hours of debate on the floor of the House, and we have to vote yes or no; and I will guarantee my colleagues they will not know for 2 or 3 years what will be in this legislation.

We might find that there will be a situation where basically we will be making major changes in antitrust laws, and we will not even know whether the consumer will be protected. This is why the legislation should go down, and we should review it again.

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

What we will hear from the other side all day is would have, could have, should have. Would have, could have, should have; would have, could have, should have; would have, could have, should have; would have, could have, should have.

At some point my colleagues have to decide whether or not the President needs this power. It is going to have to be done in a bipartisan way, and we have a bipartisan product in front of us.

Mr. Speaker, I place in the RECORD the ''Statement of Administration Policy,'' which begins: ''The Administration strongly supports H.R. 3005.''

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, December 5, 2001.

STATEMENT OF ADMINISTRATION POLICY

H.R. 3005—BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

(REP. THOMAS (R) CA AND 5 COSPONSORS)

The Administration strongly supports H.R. 3005 and looks forward to working with the Congress to provide the President with the authority and flexibility to secure the greatest possible trade opportunities for America's farmers, workers, producers, and consumers. H.R. 3005 would provide Trade Promotion Authority for the President and would establish special procedures for the consideration of legislation to implement trade agreements.

Trade Promotion Authority (TPA) is about asserting American leadership, strengthening the American economy, and creating American jobs.

A congressional grant of TPA takes on renewed importance with the launch of new global trade negotiations. These negotiations can open markets and provide job creating opportunities for every sector of the American economy. But the President can strike the best deal for American workers and families only with approval of TPA. TPA's enactment will send a powerful signal to our trading partners that the United States is committed to free and open trade.

TPA is also essential to put the United States back at the table to help set the rules of the trading game. Our global influence diminished in recent years as other countries moved ahead while we have been stalled. There are currently more than 130 free trade agreements in the world. The United States is party to only three.

The Bush Administration is committed to consultations with Congress to help ensure that the Administration's negotiating objectives reflect the views of our elected representatives, and that they will have regular opportunities to provide advice throughout the negotiating process. H.R. 3005 deepens the traditional partnership between the Executive branch and the Congress through the creation of a joint Congressional Oversight Group with broad bipartisan representation from all the Committees that have jurisdiction over a part of a trade negotiation.

Without TPA, the United States will fall behind in shaping the rules of globalization, our new momentum for trade will be undercut, and the confidence and growth necessary for economic recovery will be weakened.

Passage of H.R. 3005 will send a strong signal of U.S. leadership in trade liberalization.

What does this package do? Obviously it creates the power to negotiate specific agreements, which will come to us later, without ability to equivocate or disagree. This legislation is the best in terms of agricultural objectives we have ever seen. It is the best in foreign investment we have ever seen. It is the best in electronic commerce we have ever seen. It is the best in intellectual property. It is the best in foreign relations, and for the first time treated equally with trade is labor and the environment. It is the best we have ever seen in a dispute resolution, and it is the most comprehensive oversight and scrutiny ever presented to the Congress. It is more bipartisan, more representative, and more effective in terms of expanding the number of Members who are able to deal with these issues.

In addition to that, after we took the product, put together by my friends that I had mentioned earlier, we then went and talked to additional Members. Through this process of talking to Members, what do they think of this work product, and from their perspective how can it be improved, they said we want to make sure there is not a race to the bottom on the labor and the environmental standards. We did that.

They said we want to make sure that no foreign investors when we go to court have greater rights than any U.S. citizen. Okay. We did that.

They said they want to make sure that if there is foreign currency changes, that it is not foreign currency manipulation for the purpose of getting a trade advantage. We said that is a good idea. It is in the bill.

Members asked for special consideration in terms of import-sensitive products. They have gotten it in three

different locations because clearly they are threatened if they are import sensitive.

Members asked that the administration not reduce textile tariffs when they are negotiating with another country that, as the gentleman from California (Mr. MATSUI) held up in terms of the Uruguay Round, where other countries said they would reduce their tariff and they have not. We said they are right. We are going to make sure that our negotiators do not lower our tariffs when the other country they are negotiating with have higher tariffs.

Members asked for an improved consultation and opportunity to actually withdraw trade promotion authority if the administration failed to consult. In a number of ways, we said, they are right; we will enhance it.

Finally, on the oversight, not just the committee's of jurisdiction, but every committee whose jurisdiction would be affected by the potential legislation, the administration has to come to us at the beginning of the process, during the process, and at the end of the process. They have to satisfy the Members of Congress on transparency and information transfer.

The administration does not determine when they are through. The administration does not determine how much information is to be made available. For the first time in any agreement, it is the Congress that controls how much information the administration has to provide.

In every aspect, this is a better negotiating tool than we have ever seen in the past. It is bipartisan. It is something that the President has said he desperately needs for a number of reasons; and there is no solid, substantial reason that this should not pass today.

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

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that we extend the time for debate for 1 hour in view of the fact that the Committee on Rules did not see fit to give the Democrats a substitute, in view of the fact that the gentleman from California (Mr. THOMAS) put this bill together in the middle of the night without a hearing, and we are now finding sometimes for the first time what is in it.

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

Mr. DREIER. Mr. Speaker, reserving the right to object, and I do plan to object, I am very proud of the way the Committee on Rules has put together this package, and I do not believe that this was done in the middle of the night.

I believe, as I said in my statement during the debate on the rule, we are faced with an up or down vote on whether or not we are going to grant the President this very important Trade Promotion Authority, and I happen to believe that we have been talking about this for a long period of time.

During debate of the Committee on Rules, the gentleman from Ohio (Mr. HALL) said let us move ahead and let us vote.

So, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. RANGEL. Mr. Speaker, with deep disappointment, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER).

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

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in opposition to this legislation.

Ladies and Gentlemen, Trade Promotion Authority is being sold to Americans as a few different things. The Bush Administration has called today's vote an act of patriotism, now more necessary than ever. House Republican leaders, in a suspicious midnight conversion, are now feverishly promising gifts to its critics in return for their support. Well folks, you can wrap this vote up in red, white and blue. You can tie it with a bow and put it under the tree. But either way, this trade bill is neither patriotic nor a gift. It is a dagger into our basic rights and our standard of living.

Americans are being asked to make three sacrifices in exchange for President Bush's trade policy. They are being asked to give up their middle-class lifestyle, their environmental concerns, and their public health. For all those Americans who think that sounds like a raw deal—and they are right—I urge my colleagues to vote a resounding ''no'' on this very bad trade deal.

When NAFTA was passed in 1993, its supporters promised nothing but blue skies for hard-working Americans. Using fast-track authority. President Clinton hurdled the bill through Congress without a truly meaningful debate in Congress on the effects of such a trade agreement. Millions of Americans have paid a high price for that lack of candor eight years ago. A recent report shows that 3 million actual and potential jobs disappeared from the American economy between 1994 and 2000 due to NAFTA and the accelerated trade deficits it caused. In my home State of California, over 300,000 manufacturing jobs—good jobs, well-paying jobs—crossed the border during the last 6 years. The economic surge and booming stock market of the 1990s masked a harsh reality for millions of American workers—for them, NAFTA has meant nothing more than a pink slip.

Despite this, President Bush and others in Congress would expand NAFTA further. If this bill passes, it would allow the Administration to eventually spread NAFTA's misery to over 30 other nations in our hemisphere and further exacerbate job losses in our own country. America's workers had hoped for a different kind of generosity from the American government. After losing their jobs to NAFTA a few years ago, they waited for training programs. In the wake of September 11, they waited for help that instead went to corporations. And they are waiting still, listening to empty promises that TPA will help bring back their jobs.

In the last day, realizing that they are perilously close to losing this vote on fast track, Republican leaders have suddenly become concerned about the needs of America's working men and women. They are now promising more trade adjustment assistance, for example. That would be nice. But their bill does not guarantee more trade adjustment assistance, it just authorizes it. We've been there before. Their bill continue to fail to address the deeper pitfalls that fast track poses for working families.

Fast Track also poses a serious threat to the environment. Frankly, it is insulting to my colleagues and all Americans when fast track proponents claim that their bill includes strong language that adequately addresses environmental concerns. One look at NAFTA shows why we should be terrified at extending current trade rules to future agreements.

Chapter 11, a provision intended to protect multinational corporations from their host states, has been abused by corporations that refuse to be bound by lawfully decided and publicly supported environmental regulations. California was one of the first states to run into the chapter 11 problem when it tried to protect its environment from the harmful effects of MTBE. When California halted the use of the gasoline additive, a Canadian corporation called Methanex sued the United States under NAFTA's chapter 11 for almost one billion dollars because of lost revenue it said it would incur from California's decision to protect its environment. Luckily, however, America remains a democracy where important environmental decisions are reached in a fair, open manner.

Consider this frightening, fast track reality: If foreign companies operating in the U.S. don't want to play by our rules, they get their cases decided before a secret tribunal accountable to no one. This lack of democracy doesn't bother the administration. The environment has become a defendant without rights. Rights are reserved for multi-national corporations.

Like pharmaceutical companies, for example. According to the Bush administration, demanding higher labor standards in our trade agreements is an imposition of values. On the other hand, when we force other countries to rigidly adhere to our own intellectual property laws, this is sound policy. A principal negotiating objective in this bill is to achieve the elimination of, ''price controls and reference pricing which deny full market access for United States products''. I don't think such a narrow-minded, market-driven approach is justifiable in the face of an HIV/AIDS pandemic that has decimated much of Africa.

Since the horrible events of September 11, public health experts have warned that our country must reduce its vulnerability to potential biological and chemical terrorism. The American Public Health Association doesn't support this bill because it represents a risk to the safety of America's food supply.

Let me quote Dr. Mohammad Akhter, Executive Director of the American Public Health Association:

> With our system of imported food safety so flimsy, the last thing we need is an executive mandate for more porous borders.

Executive mandate is exactly what this bill is. It stomps on the constitutional authority granted to Congress over international commerce. On these grounds alone, this bill is unconstitutional. But add to that criticism the hostility that this bill shows toward labor rights, environmental protection and public health, and you have a bill that is indefensible and should be voted down here today. A vote against fast track is a vote to defend the rights

and liberties that we hold so dear. It is a vote to support working men and women in America. It is a vote to protect our environment, our public health and our values.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

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

Mr. NEAL of Massachusetts. Mr. Speaker, the gentleman from California (Mr. THOMAS) said, ''would have, could have and should have.'' Let us add another part of that, ''want to,'' because as a free trader here I strongly urge my colleagues today to vote against this particular version of Fast Track Authority. The bill, put together by the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) is far superior, and I hope that that version will pass by the end of the hour we have to debate.

While being more modern perhaps than their previous offerings, the Republican bill still fails to give adequate voice to the new realities of trade negotiations, that decisions made impact our constituents in many more ways than they used to, because the negotiations no longer simply attempt to lower tariffs or to reduce direct restraints on trade.

Hence, the goals the United States should pursue need to be more clearly articulated in any legislation, the issues that we do not always see at the surface in Fast Track Authority. The role of Congress needs to be far more extensive in order to bring about a successful conclusion.

These new realities are knitted together in a far more comprehensive manner by the Rangel-Levin version of Fast Track Authority than the Republicans have proposed. We all would be better off in the long run by a decision to negotiate, in a meaningful way, bipartisan legislation rather than forcing this through this afternoon.

□ 1400

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 3005.

This bill is about arming the President and his team with the authority to achieve trade agreements written in the best interest of U.S. farmers, companies, and workers. It ensures that the President will negotiate according to clearly defined goals and objectives written by Congress.

Trade is fundamental to our relations with other nations. As the President strives to neutralize international threats to our security, TPA is an essential tool for him to have to use in the campaign to build coalitions around the world that work with us to guard freedom.

H.R. 3005 strikes a two-way partnership between the President and Congress on our common objectives for international trade negotiations in which the United States participates. Its passage will ensure that the world knows that Americans speak with one voice on issues vital to our economic security.

My colleagues know I am not one who is enthusiastic about putting labor and environmental matters on the trade agenda, and my original TPA bill, H.R. 2149, which had 100 cosponsors, was completely clean in this respect. But to protect our country's interests internationally, I acknowledged the necessity of forging a meeting of minds on these sensitive issues with our colleagues on the other side of the aisle. The final result of difficult compromises over 5 months is the bill before us today.

TPA simply offers the opportunity for us to negotiate from a position of strength, and does not in any way constitute final approval of any trade agreement. Under this bill, Congress and the American people retain full authority to approve or disapprove any trade agreement at the time the President presents it to Congress.

While we have delayed these last 7 years to pass TPA, other countries have accelerated their claims to new markets. The U.S. is the world's greatest exporter, sending almost $1 trillion worth of goods and services to foreign consumers. Expanding trade remains the linchpin of any successful strategy to increase long-term noninflationary economic growth.

In my home State of Illinois, over 400,000 jobs are tied directly to exports. These jobs are more secure and pay over 15 percent more than nontrade-related jobs. According to a study by the National Association of Manufacturers, companies that manufacture for export are almost 10 percent less likely to go out of business than others. These firms pay better benefits. In Illinois, these good, high paying, trade-related jobs are often in the machinery, agriculture, information technology, and chemical sectors. These are the types of jobs that will not be created if we reject the opportunities of the international marketplace by voting no on H.R. 3005.

In these times of economic dislocation, we cannot afford to deny President Bush a primary tool of economic growth. Americans have never been reluctant to compete head to head with our trading partners. We should not dash the best chance we have of creating a better future of dynamic economic growth and success for our workers, businesses, and farmers in international markets.

I urge a ''yes'' vote on H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

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

Mr. SAWYER. Mr. Speaker, I rise in opposition to the measure before us, confident that we can do better.

Mr. Speaker, I bring credentials to this discussion.

I have supported trade initiatives since I came to Congress. And I continue to believe that Presidential trade negotiating authority is an important tool. But it must be the right kind of authority, suited to our time. And the bill before us does not provide that.

Trade negotiations have moved far beyond the issue of tariffs. These negotiations now affect our nation's tax laws, intellectual property standards, insurance system, and agricultural programs. These are issues that would not have occurred to Congress when we launched GATT after World War II. Our trade laws must change with the times. The volume and content of international trade has expanded enormously in the past decade. And the scope of trade agreements has expanded well beyond the jurisdiction of the Committee on Ways and Means in the last quarter century. Trade affects all of our constituents on a daily basis, and we must strengthen our responsibility to speak for them.

Congress must now expand its capacity to engage negotiators over the often long and complex course of modern trade agreements. We need an expanded, independently informed, and active set of Congressional advisers. And if the President's negotiators are obviously not fulfilling their stated objectives, Members must have an opportunity to vote on a resolution of disapproval that does not have to be passed first by the Ways and Means Committee. Congress must have an integral role, more than just more vague promises from the Administration to consult with us. If the consultations, or rather lack of them, that bring us to this juncture today are an example of what our colleagues have in mind, it is an empty promise indeed. Giving Congress real participatory oversight of the negotiations is the best way to build Congressional support for the agreements that are ultimately reached.

It is simply not true to say that opponents of the Thomas bill are opponents of free trade. That statement ignores the honest effort led by Mr. Rangel to craft a bill that will accomplish the objective of promoting trade without sacrificing our capacity to continue to work towards basic environmental and labor standards.

A vote against today's bill is not an attempt to hold free trade hostage until the rest of the world matches our labor standards. The Rangel alternative expects nothing of the sort. A vote against the bill is a vote to go back to work on legislation that will engage our partners in a real dialogue. We must ensure, at a minimum, that countries do not weaken their labor and environment laws to attract investment. It is a vote to go back to work on a bill that will create the relationship that should naturally exist between the World Trade Organization and the International Labor Organization. It is a vote to ensure that the rules we set up do not give foreign investors greater rights in America than Americans themselves enjoy.

I look to the future, and I know we can build a bipartisan consensus for trade promotion authority. That is crucial because any trade negotiating framework must have the confidence

of more than a narrow, partisan majority in order to command real respect for trade agreements that flow from it. The bill before us today, regrettably, does not do that. We can do better.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN), a distinguished member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I support granting the President Trade Promotion Authority, but I oppose the bill we are considering today. I have supported fast track authority for NAFTA, for GATT, I supported PNTR, but I oppose this bill.

The reason I oppose it is that the landscape for trade legislation has changed, yet our delegation of authority to our President has not. Let me just cite one example.

We talk about putting in our authority that we expect to make progress on labor standards by enforcing one's own laws. Yet when we accomplished that for Jordan, the first thing we did was to weaken our ability to enforce those standards.

Let us take a look at antidumping laws. We passed legislation in this body that said we would not weaken our antidumping and countervailing duty laws. Yet in Doha we put that on the table for negotiations. So at least we would think that this underlying bill would make a principal objective of trade that we do not weaken our own laws in this regard. But, no, we put it as a third priority. What message is that to our trading partners? We can do better.

Support the motion to recommit with the Rangel bill, then we really will give the right authority to the President. I urge rejecting the underlying bill and supporting the motion to recommit.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. HERGER), a member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, this is without a doubt one of the most important votes any of us will cast this Congress. Today we are deciding whether or not we will give American workers and American companies the support they need to open international markets.

Nowhere is trade more important than on the farm. Last year, more than $140 million worth of dried plums, $600 million worth of almonds, were exported from the State of California, much of it from my northern California district. California exports 80 percent of its cotton, 70 percent of its almonds, and 40 percent of its rice, yet our farmers face an average tariff rate of 62 percent. These barriers will never be eliminated until we give the President Trade Promotion Authority.

I strongly urge my colleagues to support TPA.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield an additional 2 minutes to the gentleman from Louisiana (Mr. JEFFERSON.)

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the gentleman from Louisiana will control 2 additional minutes.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I want to address myself particularly to the Democratic side of the aisle, not necessarily to all of the Democratic Caucus, because I understand that many of us are in districts that have high concentrations of organized labor, have high concentrations of textiles and other industries that could be adversely affected by trade. But I know that there are at least 60 Members who represent districts that are highly dependent upon trade, that in fact represent the highest economic growth sectors of this economy; technology, telecommunications, professional services products throughout the manufacturing sector benefit from international trade.

All of our constituents benefit by lower prices in products and services as a result of trade. In fact, all of us have constituents whose incomes are 15 percent greater because they are in export-related jobs.

The reality is that this bill in fact, is bipartisan, and nobody outside the boundaries of the Beltway cares about personalities or process. They look at policy. From a policy standpoint, we have enforceable standards on labor and the environment. We have the availability of the use of sanctions for all such negotiating objectives. We have transparency in all commercial transactions.

This is the most substantial progress in U.S. trade policy with respect to labor and the environment that we have ever had the opportunity to vote for. This is a good bill. It is one we should all support. I urge its approval.

Mr. JEFFERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. DICKS).

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

Mr. DICKS. Mr. Speaker, I rise in strong support of the Trade Promotion Authority Act of 2001. This is outstanding legislation.

Mr. Speaker, H.R. 3005 is legislation that will grant to the President Fast Track negotiating authority for certain trade agreements. I am convinced, Mr. Speaker, that this authority is necessary to ensure that the United States remains a global leader on free trade, and to enable this President and future Presidents to continue to work to open foreign markets to American goods.

Clearly in today's global economy, our Nation has a major interest in reducing barriers to international trade, with more and more American jobs dependent upon our ability to market our goods and services to overseas customers. And certainly in my State of Washington, which is the most trade-dependent in the Nation, our ability to trade freely with foreign nations sustains an enormous portion of our economy. In Washington, we exported more than $33 billion in goods each year, estimated to sustain more than 1 million jobs. The Puget Sound area of our State was recently described as the most export-dependent U.S. metropolitan area. So this is an issue that relates very much to the creation of new jobs in our region, and certainly it plays a major role in the national economy as well, helping to improve our balance of trade and provide jobs for American workers in the 21st century.

And these are good jobs. These are not low wage service jobs that have been generated from the growth of international trade in my State. They are family-wage jobs that pay substantially greater than the national average. We are talking about thousands of union machinists making airplanes at the Boeing Company, about software developers at Microsoft, mill workers who fabricate aluminum at Kaiser, chipmakers at Intel, and workers at Weyerhauser who produce lumber wood products.

Trade is not just important to large businesses and big corporations. In my state, there are many more small businesses than big ones that owe their income to international trade.

There are many small companies that supply machine and airplane parts that go into the aircraft that we sell overseas, thousands of farmers that grow apples and wheat, and countless small, family-owned mills that process timber and sell the products in Asian and other overseas markets. And there are jobs that are sustained by these exporters: Bankers, teachers, restaurant workers, plumbers, lawyers and countless others.

The economic recession has had a severe impact on the State of Washington. The end of the high technology boom and the effect that the attacks on September 11 have had on the aircraft industry has been devastating. Currently, we are suffering the highest unemployment rate in the Nation—6.6 percent.

My highest priority as a Member of Congress has always been jobs. Increasing our trade and exports with other countries means jobs for Americans and jobs for people in Washington State. In my judgment, the fastest way out of this recession is to tear down the barriers other nations have put up against American goods and services, enabling our manufacturers and other businesses to access new markets. I believe in the ability of our workers and businesses to compete against anybody and win.

Some of my colleagues claim that Trade Promotion Authority is not needed; that the President can already conduct trade negotiations without expedited authority granted by Congress. This is true, the President can negotiate an agreement with other nations. However, what we have found since Fast Track authority lapsed in 1994 is that other nations are unwilling to negotiate with us knowing that any agreement reached with the administration would likely be changed by Congress without consultation or consideration of the views of the other party to the agreement. This is why President Clinton strongly urged Congress to extend Fast Track authority several years ago.

We are falling behind. Of the more than 130 free trade agreements in the world today, the United States is a party to only three. The European Union, by contrast, is a party to more than 27. Because they cannot negotiate a fair deal with the United States, other countries are choosing to buy European-made manufactured goods and agricultural commodities, putting our factory workers and farmers at a distinct disadvantage.

I urge my colleagues to consider very seriously how a vote against this bill will affect our nation's ability to compete in the global marketplace. I also ask that you think about how important this bill is to enable our economic recovery. For both of these reasons, I encourage my colleagues to join me in support of H.R. 3005.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW), a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, ''Made in the USA'' is a badge of pride. It is a symbol of quality. It is a symbol of good workmanship. It is not a symbol of protectionism. The greatest, largest economy in the world cannot be afraid of free trade. The most free country, the strongest country in the world, cannot be afraid to give to their President the same authority that every other President and Prime Minister in this world has today.

Let us give this authority to the President. We are not voting on a treaty. We are simply voting on the authority of the President to go forward. The rest of the world is going towards free trade. We are going to lose markets to the countries that have free trade. Let us support this bill. It is very important to give the President this authority.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my colleague for yielding me this time, and I rise reluctantly in opposition to H.R. 3005 today.

I say reluctantly, because I believe in trade, the necessity for it to achieve economic growth and expanded opportunities for all of our workers, I believe the President needs this authority, and I have supported all trade agreements in Congress since I have been here; this debate today, however, is not about being for trade or against trade, it is about establishing the rules of trade in the 21st century.

The world is very different than it has been in the past when trade negotiations were, by and large, about reducing trade barriers, quotas, and tariffs. There are many more complex and evolving issues involving trade: labor and environmental standards, antitrust, health and safety standards, privacy standards. The major issue for trade in the 21st century will be the harmonization of these different standards. And the question is do we harmonize upwards or downwards? Do we improve standards around the globe or is it a race to the bottom?

That is why I, along with the gentleman from California (Mr. MATSUI), believe there needs to be a greater institutional role for Congress to have consistent with our Article I, section 8 responsibilities in the Constitution. But I resent the fact that many of us have had to come begging in the 11th hour to get the majority party and the administration to do right by American workers today with an adequate worker relief package which is the right thing to do anyway. That should not occur. It should have been dealt with months ago, but instead it came to this. Trade policy should not be partisan or personality driven. Let's instead do it right.

So unfortunately I rise in opposition and encourage support for the motion to recommit.

As our Nation leads the world into the 21st century, we should not shy from opportunities to guide and expand global trade. Opening up foreign markets to American goods not only provides economic growth potential, but also exposes American ideals to people around the globe. I cannot, however, support the majority's trade authority legislation because it does little service to real problems facing this Nation, refuses to guide trade negotiations in a positive way, and unnecessarily maintains a weak constitutional role for Congress in regulating international commerce, which is our obligation under article 1, section 8 of the Constitution.

In a world fused by global integration and communication, international trade has become a linchpin of not only our national economy, but also the economies of most nations. We must remember that today's vote, however, is not about promoting or suppressing trade between the United States and other nations. This vote is about how our Federal Government goes about the process of regulating commerce between nations.

Our Founding Fathers deliberately put Congress in control of regulating commerce with foreign nations. With the impact of tariffs and duties directly affecting their diverse constituencies, Members have a responsibility to weigh in on the regional impacts of these mechanisms. Today's trade environment is constantly changing, with nontariff trade issues impacting all aspects of our economy and law. Issues including antitrust law, intellectual property, and pharmaceutical costs, along with concerns over regulatory harmonization, require intense negotiations at a new level. Nonetheless, the role of Congress should not be ignored as it is in H.R. 3005, but reestablished in recognition of these new challenges. To this end, I encourage my colleagues to consider the establishment of a Congressional Trade Office that could analyze the implications of trade negotiations, and address the concerns of Congress. Such an office would also be able to provide all Members, not just certain committee leaders, with information on the range of issues facing each region in a nonpartisan, objective fashion.

In formulating a trade authority bill that will help establish how America engages the rest of the world in the 21st century, I had hoped this Congress would seize the opportunity to move toward positive, fundamental changes in world trade agreements. Unfortunately, by forcing a partisan trade bill, the House leadership dismissed this opportunity, effectively limiting our Nation's ability to advance international labor, health, safety, and environmental standards, as well as improve transparency in international organizations.

Developing trade relations between the United States and foreign nations is often mutually beneficial on economic, societal, and political fronts. We cannot, however, ignore that with such engagement, competition increases and can result in winners and losers.

In my home town of La Crosse, WI, Isola Laminate Systems recently laid off 190 skilled workers due in part to a worsening economy, but also due to government trade policies relating to textiles. These laid off workers should have every opportunity to receive adequate benefits, including health and training, through Trade Adjustment Assistance. While the majority has thrown a bone to workers in regard to increased TAA assistance, the shortcomings of TAA have not been resolved.

Moreover, it is important that any real Trade Adjustment Assistance reform provide benefits to our Nation's agricultural producers. America's family farmers are impacted by our trade agreements through markets being both gained and lost. Unfortunately, agricultural producers are not currently eligible for trade adjustment assistance even though family farms are going out of business at record levels. Providing income assistance and job employment skills should be as important for America's farmers as it is for our Nation's industrial workers.

As recent reports have indicated, our Nation's economy has been in recession since March 2001. In combination with immediate and long-term economic losses associated with the terrorist attacks of September 11, the economy's downturn has resulted in faltered businesses and laid-off workers. In response, Congress has done little to come to the aid of displaced workers throughout the country, despite demands by Members and promises from the House leadership. In an effort to push unemployment legislation I, along with some of my colleagues, sent a letter on October 24, 2001 to the majority leadership stating our refusal to support Trade Promotion Authority unless displaced worker aide is addressed beforehand. The 11th hour promise to recommend action on unemployment benefits for our Nation's affected workers is not concrete, not encouraging, and not enough.

As a supporter of increased trade opportunity, I consider this vote very important. H.R. 3005 as it currently stands, however, does not provide assurances that the concerns of western Wisconsin residents will be adequately addressed in future trade negotiations. If Congress is going to cede some of its authority over the regulation of commerce with foreign nations, such a proposal should be based on deliberate policy and not partisan politics. The failure of the House leadership to come to the negotiating table and work in a bipartisan manner on this important issue is shameful. I strongly encourage my colleagues to pass the motion to recommit and include language from the Rangel-Levin-Matsui Comprehensive Trade Negotiating Authority Act, which more accurately addresses the issues of international labor and environmental concerns, and strengthens the critical role Congress should play formulating trade.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from

Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture.

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

Mr. STENHOLM. Mr. Speaker, I rise in support of Trade Promotion Authority and the bill before us today. The truth about trade is that there always are both successes and failures, winners and losers. But for our Nation as a whole, the indisputable fact is trade is a net positive.

When it comes to agriculture, the successes have outweighed the failures. American farmers and ranchers now make a quarter of our sales to overseas markets. Next year, agriculture exports are expected to exceed $54.5 billion, making a net trade surplus of $14.5 billion. That is just a fraction of what could be possible if we had freer and fairer markets.

For workers who have lost in trade in the past, I sincerely believe that the best and perhaps only way to fix what has failed is through new negotiations that level the playing field. We must speak and act with a united voice and a unified voice that is forged through a close partnership between Congress and the executive branch. That is the vision of the compromise bill before us today.

There is a dear price to be paid for delay. American farmers and ranchers cannot afford for us to stand by and watch the rest of the world unite behind trade. We need to participate. Support this bill today.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 1 minute to the gentleman from Iowa (Mr. NUSSLE), a member of the Committee on Ways and Means and the chairman of the Committee on the Budget in the House of Representatives.

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

Mr. NUSSLE. Mr. Speaker, promoting international trade is essential to our economy and to our ability to secure America's future. Granting the President authority to improve and expand trade agreements is essential to securing America's future. We cannot say that we are for trade if we vote against promoting trade authority for the President.

Let me talk about agriculture. Agriculture would probably be the biggest beneficiary under this agreement and under this legislation. Thirty-five percent of agricultural goods from my district alone are exported. If you walk out into a corn field and count the rows, 1 of every 5 corn rows in Iowa is exported.

But it is not just agriculture. In my district, 217 manufacturers in little old Iowa, in the Second District, export on a regular basis. John Deere, 1 of every 4 green tractors that come off the line is exported overseas. Thirty-five thousand jobs nationwide are export dependent.

Revitalize our economy, create jobs, pass Trade Promotion Authority.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise to support the Rangel-Levin bill and oppose the Thomas bill, which contains provisions favoring the pharmaceutical industry that will make it harder for Americans and our trading partners to get access to affordable medicines.

The Thomas bill will force the Third World's poorest countries to move more quickly to pay the First World's high drug prices in order to treat diseases like AIDS. Unlike the Rangel-Levin bill, the Thomas bill completely ignores the health needs of developing countries.

The Thomas bill directs the elimination of government measures, such as price controls and reference pricing, used by many trading partners, to keep prescription drugs affordable. This is not a proper trade objective, it is a greed objective for the pharmaceutical industry.

□ 1415

By forcing higher drug prices in Canada, it could deprive many American seniors of an inexpensive source of drugs. In the U.S., it could force repeal of the deep discounts available for veterans and those on Medicaid. In the name of free trade, the Thomas bill protects the monopolies of this country's most profitable industry, and hurts the world's poorest disease-ridden countries. Vote down this bill.

Mr. JEFFERSON. Mr. Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. CARSON).

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. CARSON).

(Mr. CARSON of Oklahoma asked and was given permission to revise and extend his remarks.)

Mr. CARSON of Oklahoma. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, I rise today as one of the distressingly few Democrats in support of a grant of Trade Promotion Authority to President Bush. My support of TPA springs from the recognition that trade is really part of a larger debate on the proper role of America in the world today. It is a debate that echoes in the halls of the Pentagon and the National Security Council, as well as those of our trade representatives, and that is waged with arguments in Doha but with arms in the Hindu Kush.

Many of my colleagues in the Democratic Party state their belief in free trade, but nonetheless refuse to support TPA unless it includes provisions mandating other nations' compliance with our own environmental and labor standards. Alas, this notion, if enacted, would render TPA a nullity, a mere piece of paper that in the prelude expresses support for trade but which, in the details, mocks that claim. None of the developing nations with which we aspire to negotiate new trade agreements will accept strict labor and environmental provisions.

And equally as important, the best way to improve labor and environmental standards, given many nations' social conditions, is to increase the wealth of the developing world, which trade will do, while also increasing our own wealth. It is a no-lose proposition.

To reject TPA is, in the end, to reject trade itself, which is a disaster for the country and the world, and, for my own party, a refusal to live up to its historic obligation to support free trade.

Mr. Speaker, I rise today as one of the distressingly few Democrats in support of a grant of Trade Promotion Authority to President Bush. My support of TPA springs from the recognition that trade is really part of a larger debate on the proper role of America in the world today. It is a debate that echoes in the halls of the Pentagon and National Security Council, as well as those of our trade representatives, and that is waged with arguments in Doha but with arms in the Hindu Kush.

Since Adam Smith first articulated the case for free trade in the 18th century, economists, no matter whether liberal or conservative, have acknowledged with near-unanimity the merits of trade liberalization. Trade increases wealth for participating countries, ensures access to high-quality products, and guarantees the efficient use of resources. As Smith recognized, it pays for a country to specialize in what it does best, even if that country can do everything better than its trading partners. This is the essence of comparative advantage.

Many of my colleagues in the Democratic Party state their belief in free trade, but nonetheless refuse to support TPA unless it includes provisions mandating other nation's compliance with our own environmental and labor standards. Alas, this notion, if enacted, would render TPA a nullity—a mere piece of paper that, in the prelude, expresses support for trade but which, in the details, mocks that claim. None of the developing nations with which we aspire to negotiate new trade agreements will accept strict labor and environmental provisions. And, equally as important, the best way to improve labor and environmental standards, given many nation's social conditions, is to increase the wealth of the developing world, which trade will do, while also increasing our own wealth. It's no-lose proposition.

It is true that, while the nation tremendously benefits from trade, certain sectors of our economy can be hurt. That is why, as Democrats, we must support and expand Trade Adjustment Assistance, the portability of health insurance benefits, more assistance to the International Labor Organization and other non-governmental organizations that do the heavy lifting on labor and environmental issues, and even wage insurance for displaced workers. But at no cost should we scuttle one of the great achievements of the post-war era: the liberalization of trade. To reject TPA is, in the end, to reject trade itself, which is a disaster for the country and the world, and, for my own party, a refusal to live up to our historic obligation to reach out to the world, bringing prosperity to our own workers and those abroad, too.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I represented 700,000 in the suburbs of Seattle and Tacoma. One-third of the jobs held by these people are related to trade. Reducing trade barriers has never been more important in the Puget Sound area. If we do not expand exports and open new markets for Boeing jets and Microsoft software, we lose more jobs in the Northwest. For Boeing workers, TPA means keeping the aircraft industry viable in our community. Over $18 billion worth of aircrafts were exported last year. Traditionally, half of Boeing's aircraft sales are for overseas customers, a trend that will continue in the future.

For our farmers, TPA means that more people will have access to the finest products in the world; 33 percent of Washington State commodities, valued at $1.8 billion go to the international market.

For our high-tech firms, TPA means strengthening intellectual property standards. The software industry loses $12 billion annually due to counterfeiting and piracy. Reducing piracy in China alone could generate $1 billion of revenue for the Northwest.

For women entrepreneurs, women-owned businesses involved in international trade have higher growth rates, develop more innovations, and create more jobs in their communities. Support TPA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I urge a ''no'' vote on the Thomas bill so we can ultimately bring up the Rangel-Levin bill which takes an important step to restore this body's constitutional mandate in trade making so that trade regimes lift all people. Why pass another same-old same-old trade bill that will bring us more lost jobs, more bankrupt farmers with the lowest prices in history with growing trade deficits every single year.

Fast Track procedures simply do not work. This Congress has the ability to write trade agreements that leaves no sector behind, recognizes worker rights, and a clean safe environment for each of the world's citizens. Put a human face on globalization; vote ''no'' on the Thomas bill and let us meet our constitutional obligations in this Chamber to write trade bills that work for everyone.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY), who has been a real leader in forging a bipartisan effort on this bill.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DOOLEY).

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

Mr. DOOLEY of California. Mr. Speaker, it was a pleasure to work with the gentleman from Louisiana (Mr. JEFFERSON), the gentleman from California (Mr. THOMAS), the gentleman from Tennessee (Mr. TANNER), and many others in drafting what I believe is a significant step forward in developing Trade Promotion Authority.

Mr. Speaker, why is this important? It is important so the United States can maximize its influence and maximize its leadership internationally. It is important for the United States to demonstrate how we can lead and expand not only economic opportunities for the working people and the businesses in our country, but also demonstrate through this policy of economic engagement, which is embodied in our trade agreements, that we can do more to empower people throughout the world.

When we look at those individuals in the developing world, every dollar in their per capita income that they see improved gives them greater purchasing power; but also with the improvement in their quality of life and their economy, we see the advancement of human rights, of civil liberties, and also the advancement of democracy.

What we are able to do in this Trade Promotion Authority is to ensure that we are not only going to make progress in expanding the economic opportunities; but also for the first time, we are going to be able to provide the ability to see the enhancement of environmental and labor standards internationally through our trade agreements.

What was also important for all of us to realize was that the only way we can again provide that leadership is to ensure that we can get these countries to the negotiating tables. A lot of the alternative proposals that have been offered for Trade Promotion Authority, unfortunately, would result in very few countries being interested to participate in negotiations with the United States.

A failure to pass Trade Promotion Authority will have significant impacts. In the last few weeks we have heard that Brazil and Bolivia would fail to participate in a Free Trade Area to the America agreement without the passage of TPA.

Following the Doha agreement, we have France that made a strong statement that they would not be interested in participating in the next round of negotiations if the United States President did not have TPA. This is important to our economy and workers, and also to the developing world.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT), member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, here we have the ''fast'' Fast Track being rammed through Congress, with all amendments and alternatives blocked and 1 hour for 435 Members to debate this bill. When the House Republican leadership acts in such a high-handed manner before the bill is even passed it can hardly be expected to cooperate and collaborate after Fast-Track authority is granted.

As a strong advocate for more international commerce, I have supported trade agreements with China, the Caribbean Basin, Africa, Jordan and most recently, the Andean region. The real issue today is not whether to expand trade, but how. In the Ways and Means Committee I sought unsuccessfully to obtain one simple guarantee: that foreign investors would not be given more rights than American citizens. Foreign investors should not be granted the right to eviscerate our environmental, health, safety and consumer laws, in secret investor tribunals beyond the review of the press, public, and watchdog groups.

I cannot support unlimited authority to negotiate international agreement impacting the environment for an Administration whose environmental record has ranged from indifference to outright hostility. That is why the Sierra Club, Friends of the Earth, the League of Conservation voters and every major environmental group in this country is opposing this legislation. It relegates the role of Congress to little more than preparing a Christmas wish list, hoping that an Executive Santa Claus will deliver. I am not against taking a fast track to more trade; I am against any proposal that does not give the Congress a steering wheel and a brake when the administration takes the wrong track for the environment.

Mr. JEFFERSON. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER), who has been a real partner in this effort.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, this has been an honest, intellectual exercise in a negotiation to try to do something for this country which desperately needs to be done. The irony of part of this argument today is the very means by which we address child labor, labor and environmental standards of all sorts, is through a vehicle just like we have the vote on today. It is the only way Congress can participate, and it ought to be done. The irony is if we turn it down, what have we done? Nothing. Absolutely nothing, and Congress has no voice at all in what goes on around the world in the area of the world marketplace. That is really pathetic.

The other thing I would like to say, if Members believe, as I think everyone has to, that we can grow more food in this country than we can consume, that we can make more products and stuff than we can sell and buy from one another, then it is an economic fact of life, not a political argument, that those engaged in surplus production are going to lose their jobs. That is not

a political argument; that is an economic fact.

How do we save those jobs, how do we create new jobs, is by exports so that people in this country can work to make, as an earlier speaker said, tractors in Iowa to send to the rest of the world. That is what this is about: jobs in this country.

Mr. Speaker, if we turn this down, we are going to wait awhile, 1, 2, 3 years, I will tell Members what is going to happen. Maybe 4, 5 years from now we are going to wake up and the economic partnerships which have been created between the Asians, the South Americans and the European Union, we are going to be wondering what happened to the United States leadership, to the United States jobs and to the United States role as a leader in the world.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I would support Fast Track legislation that meaningfully addresses the areas of labor and the environment, and provides an effective mechanism for congressional participation. This bill does not. I urge my colleagues to vote against H.R. 3005.

Mr. Speaker, article 1 of the Constitution empowers this body, Congress, to regulate commerce with foreign nations. Over the past 250 years of our Nation's existence, for only 20 of those years, from 1974 to 1994, has this body granted the President authority for fast tracking any trade agreement. In those 20 years, five agreements were signed. In contrast, during the 8 years of the Clinton administration, 300 agreements were signed with countries from Belarus to Japan to Uzbekistan.

We can do this without Fast Track. We should have Fast Track, but it should be a Fast Track that gives us a clear road map of where this authority will take us.

We owe it to the American people not to abandon the American worker or consumer. Until we have Fast Track legislation that guarantees where we will protect our workers and consumers, we should not support Fast Track legislation. Vote ''no'' on H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I am someone who has never voted against trade legislation on this floor. But unfortunately, the President and the Republican leadership have missed an opportunity to move beyond the partisan and narrow ideological divide.

The provisions of the bill of the gentleman from New York (Mr. RANGEL) which dealt with labor standards, multilateral environmental agreements and the elimination of the chapter 11 imbalance could have produced a bill which would have provided 250 ''yes'' votes on this floor.

□ 1430

But, instead, we are not even allowed to vote on it. We are only given 30 minutes to debate it. It is a travesty. Instead, the majority will be created by horse trading on citrus, on textiles, and on whatever else we will find out when we read the paper over the next 1 or 2 weeks. It is a terrible way to create trade policy. At a time when our Nation expects the best, we are falling short. It is shameful, it is unnecessary.

I urge a ''no'' vote. Come back, do it right. There will be an opportunity.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT), one of the active Members on trade.

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. MCDERMOTT. Mr. Speaker, I rise today in opposition to H.R. 3005, the Trade Promotion Authority Act of ''Fast Track'' as it is commonly called.

Let me first say that there probably isn't a Member in the House that has voted in favor of more trade legislation that I have. No part of the country is more dependent on trade than the district I represent in Congress. Almost one fourth of the jobs in the greater Seattle area are generated through trade. Trade fosters peaceful international relations, raised the quality of life of working families in our country as well as those in our partner nations. I have supported many trade agreements—MFN for China, NAFTA, AGOA and the Reciprocal Trade Agreement Authorities Act of 1998—but like any trader, I try to learn from experience, and be careful that I only endorse agreements that advance our national goals.

In the past year, our country lost more than one million manufacturing jobs. We have an economy in very deep trouble. Weak prior to September 11th, on that terrible day, it began to hemorrhage.

Mr. Speaker, during the 8 years of prosperity of the Clinton administration, the United States negotiated more than 300 treaties. In fact, only 4 years ago, there were those who said on this floor that without Fast Track, Chile would never negotiate a treaty with us. At the end of President Clinton's administration, Chile said they will. And several months ago the President of Costa Rica announced his country would negotiate with the United States, again without Fast Track. Brazil's Minister Councilor stated at a New America Forum that the slow pace of current FTAA negotiations, begun without Fast Track, has nothing to do with the absence of Fast Track, and everything to do with the United States' refusal to negotiate about citrus, meat and steel, products with which Brazil feels it has a competitive advantage on the table.

Now, there are a lot of us who have never voted against trade bills. Never. Nobody has a district more dependent on trade than me. One out of four jobs in my district comes from foreign trade. But when you keep Congress out of it, when you do not give us a meaningful role, I cannot support it.

A major problem with Representative THOMAS' bill is its failure to constrain trade negotiators from repeating the mistakes in NAFTA's chapter 11 on investment. Foreign corporations are using NAFTA's investment chapter to challenge core governmental functions such as California's power to protect groundwater and the application of punitive damages by a Mississippi jury to deter corporate fraud. At the time of its ratification, few supporters of NAFTA realized that its investment chapter opened the door to such challenges. Now we know the potential impact of language being considered for inclusion in the FTAA and other agreements. H.R. 3005 fails to address the danger that the mistakes of NAFTA's chapter 11 will be repeated in negotiations for a Free Trade Area for the Americas and other future agreements.

The Thomas bill would not protect multilateral environmental agreements from being challenged as barriers to trade. These critical agreements safeguard biodiversity, regulate trade in endangered species, protect the ozone layer and control persistent organic pollutants. The Thomas bill does nothing to discourage countries from lowering or eliminating their environmental standards to gain unfair trade advantages. It also fails to promote meaningful improvement in environmental protection and cooperation.

The executive branch—and its Office of U.S. Trade Representative—must not be given fast track authority that allows it to negotiate more agreements that provide sweeping and controversial protections of property rights at the expense of traditional government authority to protect fair business competition, the environment, public health, worker safety and similar public responsibilities. Rather than compromising these legitimate governmental regulations, international trade and investment agreements should pursue standards of nondiscrimination that put U.S. companies and foreign companies on a level playing field.

I urge rejection of the Thomas bill and urge you to vote for the Levin-Rangel substitute.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. THURMAN), a member of the Committee on Ways and Means.

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

Mr. Speaker, I rise in opposition to the Thomas bill today. The amendment that was approved by the Committee on Rules last night recognizes some the issues facing Florida agriculture, but, regrettably, this is not the real deal.

As we have seen in the past, the administration can still trade away America's specialty ag products to gain market access for other products abroad. This is the same empty promise. It did not work in 1998 and it will not work now. Florida farmers have a very long memory. They are families who have fed this country for generations. They have struggled against the tide of NAFTA and the Uruguay Round agreements, and many of them have lost.

I would like to close with just a letter sent yesterday by the Florida Fruit and Vegetable Association. Unlike some others in this who continue to talk about it being good for agriculture, this is what Florida agriculture says: ''Agriculture provides Florida with a strong economic foundation, which is especially important during this economic uncertainty. That foundation could be seriously jeopardized as a result of trade agreements, most notably the Free Trade Area of the Americas, that would be negotiated under TPA.''

Please vote against this bill.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Will the gentleman take the sticker off his lapel, please, as he addresses the House.

Mr. SHERMAN. Mr. Speaker, over the last decades, we have moved from the largest creditor Nation to the largest debtor Nation in the world. We now run a trade deficit of nearly half a trillion dollars every year. The dollar is on the road to crashing sometime in the next decade or so, and this bill makes it all more certain and makes it happen faster.

It provides access to the American markets to those with the very lowest labor standards and the lowest environmental standards. It will pressure us to see our trade deficit even get larger, or to cut our own environmental standards, labor standards and wage rates in order to compete. It deprives us of the opportunity to demand trade bills that are fair and to involve Congress in making sure that the trade bills do not simply increase trade, but increase exports more than imports. The nonlegal barriers imposed, particularly by China, but other countries as well, will ensure large trade deficits if we pass Fast Track now.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, during my time in this body, I have generally supported trade agreements and the granting of so-called Fast Track negotiating authority to the President. The vigorous pursuit of bilateral and regional and world trade agreements is an essential adaptation to the economic reality our country faces.

But not just any agreements will suffice. As we consider giving negotiating authority to the President, it is important to make certain our negotiating framework has kept pace with changes in the scope and impact of trade. In my judgment, the bill before us today fails that test.

It is not a totally deficient bill. In fact, it takes some important steps towards addressing labor and environmental standards. But the bill that the gentleman from California (Mr. THOMAS) and his collaborators produced should have been a starting point for wider collaboration and negotiation, not a take-it-or-leave-it end point. Had that occurred, this bill would give greater weight to basic labor standards, would have stronger nonderogation provisions, and would more adequately protect our environmental laws from challenges by foreign investors.

We also, Mr. Speaker, need more assertive involvement by the President, both in urging all parties on Capitol Hill toward accommodation and in making his own negotiating objectives clear. It would be easier to vote for this bill, despite its deficiencies, had we heard from the President a convincing declaration that he is determined not to put our country at a disadvantage by virtue of the labor and environmental standards we maintain, and that he will instruct his negotiators to give these matters high priority.

Mr. Speaker, we should defeat this bill and do the job right early next year.

Mr. Speaker, I rise as a supporter of free and fair trade and of an expansive American trade policy. Entrepreneurs, corporate leaders, workers, and farmers in my North Carolina district have proven their ability to compete in the new world marketplace, and although our state has also seen more than its share of job losses and industrial decline, a great deal of our growth and expanding prosperity have been generated by international trade.

Therefore, during my time in this body, I have generally supported trade agreements, the granting of normal trading relationship status to China and other countries, and the granting of so-called ''fast track'' negotiating authority to the President. My view is and has been that we cannot continue to grow and to bring better jobs and expanding opportunity to our country by isolating ourselves or protecting ourselves from competition. We must confidently and aggressively enter the world marketplace, and the vigorous pursuit of bilateral, regional and world trade agreements is an essential adaption to the economic reality that we face.

Not just an agreements will suffice, however. As we anticipate the challenges we face in the next five years, we must understand that trade has greatly increased in volume and in value, that it will increasingly involve nations with very different economic and social structures from ours, and that the labor, environmental, safety, and other policies and standards that we and other countries uphold are highly relevant to the advantages or disadvantages we may experience as we trade. Moreover, our ability to protect and improve such standards in the context of trade agreements will greatly affect the impact of trade on our own quality of life and on conditions in the countries with which we do business.

So as we consider critically important legislation to give negotiating authority to the President and to specify our negotiating objectives, it is important to get it right—to understand these changes in the scope and impact of trade and to make certain our negotiating framework has kept pace. In my judgment, the bill before us today fails that test.

It is not a totally deficient bill; in fact, it takes important steps toward addressing labor and environmental standards and giving them a status commensurate with other negotiating objectives. The bill that Mr. THOMAS and his collaborators produced should have been seen as the starting point for wider collaboration and negotiation, not a take-it-or-leave-it end-point. Had that broader, bipartisan collaboration taken place, the bill would have given greater weight to the ILO's core labor standards in bilateral and regional negotiations and would have mandated the pursuit of a WTO working group on labor. It would have more strongly stipulated that agreements should have non-derogation clauses—that is, understanding that parties should not relax their labor or environmental laws in order to gain a trading advantage. It would have reduced barriers to investment while ensuring the integrity of our environmental law, by providing that foreign investors would have no greater rights in the U.S. than U.S. investors. And it would have given Congress a stronger role in overseeing negotiations and holding negotiators accountable. In all of these areas, the Rangel-Levin substitute offers reasonable alternatives that deserve more consideration than they got.

Mr. Speaker, the flawed process and flawed product are intertwined. If this bill passes today, it will be by the narrowest of margins on a largely partisan basis. That does not bode well for future trade agreements or for our country's trading posture. And it did not have to be this way. A more inclusive bipartisan process would produce a far superior bill that would pass by a large bipartisan majority, and that in turn would greatly strengthen the hand of the President and his representatives as they enter critical negotiations. That is the kind of outcome we can have if we defeat this bill and do it right early next year.

In this endeavor, we need more assertive involvement by the President, both in urging all parties on Capitol Hill toward accommodation and in making his own negotiating objectives clear. Proponents of TPA rightly point out that we are not writing actual trade agreements here and that the enabling legislation should not be overly prescriptive. Considerable presidential discretion is necessary and desirable. But that also places a burden of responsibility and accountability on the President to inform Congress and the public as to how he intends to use his discretion and what negotiating objectives he will vigorously pursue. It would be easier to vote for the bill before us today, despite its deficiencies, had we heard from the President a convincing declaration that he is determined not to put our country at a disadvantage by virtue of the labor and environmental standards we maintain, and that he will instruct his negotiators to give these matters high priority.

But we have not heard such a declaration, and so the deficiencies of this enabling legislation become all the more troubling. The Rangel-Levin substitute, while not perfect, is a better alternative. And if the motion to recommit fails, I ask my colleagues to vote against this version of TPA, so that early next year we can produce legislation that more adequately expressed this body's and this country's bipartisan support for expanded trade and that puts

our future trade negotiations on the firmest possible footing.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume 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.

The TPA bill does not require countries to implement any meaningful standards on labor rights. The bill simply requires that a country enforce its existing laws—however weak they may be.

The TPA bill does not contain any meaningful protections for the environment. The bill does nothing to prevent countries from lowering their environmental standards to gain unfair trade advantages.

The TPA bill is gross abdication of Congress' power. Congress may vote on a disapproval resolution, but only to certify that the Administration has ''failed to consult'' with Congress. Furthermore, unlike current Jackson-Vanik disapproval resolutions on trade, no floor vote is even allowed unless the disapproval resolution is first approved by the Ways and Means and Finance Committees—thereby bottling up the resolution in committee.

The U.S. has now officially entered an economic recession, and millions of workers are suffering. Neither the Administration nor the Republican-controlled House has made any attempt to help unemployed workers find new jobs, get unemployment benefits, or maintain health coverage. Yet, here we stand again on the floor of the House—presented with legislation that helps huge companies at the expense of American workers.

This bill is bad for America. Defeat this bill and let's get to work on helping American workers and the American economy.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my good friend the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I want to congratulate the gentleman from New York (Mr. RANGEL), first, for always fighting for the working men and women of this great country.

Mr. Speaker, I am concerned, like a lot of people, about the lack of opportunity to debate on this important issue, but I stand here in opposition to Fast Track, to H.R. 3005.

After several years of unprecedented growth, technological advancements, medical and scientific innovations, increased globalization, our economy is undergoing a dramatic slowdown.

We know about layoffs, we know about bankruptcies, and people are really concerned about their jobs and about their future. And we need to be concerned right now about the future of American workers and protecting our environment. All must be factored into the TPA vote and the long-term equation for the U.S. trade agenda.

I have always supported trade bills, but I cannot support this. We have got this legislation before us now, and I question the Constitutional authority concerning this bill because it affects our Congress and our involvement in trade issues. Vote no.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Michigan (Mr. CAMP), a member of the Committee on Ways and Means.

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

Mr. CAMP. Mr. Speaker, Michigan ranks fourth in exports. Our family farmers export 40 percent of what they produce. I will vote yes on TPA, because fair and free trade means a secure economy and better jobs.

It's official. Our country is in a recession, but Congress is working to help turn our economy around. One way we can do that is to expand our nation's trading opportunity by giving the president Trade Promotion Authority (TPA). This legislation will provide him the ability to negotiate sound trade agreements that will give our economy the boost it greatly needs.

Today we will vote on this important trade legislation which will open more markets by eliminating and reducing trade barriers, benefitting family farmers, employers small businesses, manufacturers, working men and women, and consumers. A vote today for fair free trade today would be the equivolent of a $1,300 to $2,000 tax cut for the average American family. This is good news for local economies in all 50 states, including Michigan.

My state has much to gain from free trade. We've already seen that with the North American Trade Agreement (NAFTA), which helped Michigan exports grow faster than overall U.S. exports. Michigan ranked the fourth highest in exports in 2000 with exports sales of merchandise totaling $51.6 billion, up more than 24 percent from 1999. We live in an export-dependent state with export sales of $5,193 for every state resident. Opening more markets through free trade will only encourage more economic growth in Michigan through exporting.

Economic growth from free trade also translates into more better, high-paying jobs. Export-related jobs pay 13 to 18 percent higher than the national average. Additionally, workers in exporting plants have greater job security because they are 9 percent less likely to shut down than those plants that do not export. In Michigan, we have 372,900 jobs directly dependent upon manufactured exports, in addition to the more than 370,000 they support directly and indirectly.

Michigan farmers, who exported an estimated $868 million in agricultural products last year, are also important to the entire state's economy. Our state exports about 22 percent to 32 percent of what Michigan farmers produce. Already we have seen the benefits of free trade on our farmers who sell more soybean oil in South Korean now that the country is reducing its tariff by 14.5 percent from 1995 to 2004. In the Philippines, they too are reducing their tariffs on soybean mean from 10 percent to 3 percent.

While we have made progress in bringing down trade barriers, more must be done. Fair, free trade means a secure economy, and more and better jobs for Michigan residents as well as all Americans. This week I will vote to give the president Trade Promotion Authority because we will all win from passing this legislation. This trade bill will provide him with the tools he needs to pull us out of this recession and put our economy back on the right track.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), an extremely valuable member of the committee and one who helped us out in bringing this trade bill to where it is today.

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

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

Mr. Speaker, as I have traveled throughout the Third District of Georgia, touring textile plants, talking to small business people in towns where textile plants have closed, I have repeatedly heard from those people that they are tired of trade agreements that have exported more jobs in their area than it has exported products. They are tired of agreements that have exported plants, seeing those plants relocated offshore, outside of the United States, all because of weak trade agreements.

In many ways, we have been our own worst enemy when it comes to the textile areas because we have repeatedly said no, no, no. But this time we took a different direction, because I have at this point to commend the gentleman from California (Chairman THOMAS), the President, the USTR Representative and Secretary Don Evans of Commerce, because as we went to them and expressed our concerns and our problems, they listened. Not only did they listen, Mr. Speaker, but they reacted to those problems.

Many of the things that you heard the chairman repeat and talk about earlier are provisions that strengthen this bill, provisions in this bill that will strengthen not only the bill, but strengthen future trade agreements, so that we do promote the exporting of goods.

This President needs the authority to be able to negotiate, to be at the table to sell our products. And that is what it is all about, products that are manufactured and produced and services that are rendered by people of this country.

Mr. Speaker, I urge my colleagues, support the President on this. He has a good track record in the few months that he has been in office. He has already addressed the dumping of steel in this country that hurts steelworkers, the dumping of softwood from Canada that hurt many mill workers across this country. In Doha he resisted the pressure from those who wanted to accelerate the phaseout of quotas and tariffs on textiles. He has a good record. He is our leader. He can be the leader and promoter of goods from this country in the international trade market.

I urge support and passage of this Trade Promotion Authority.

Mr. Speaker, I rise to support Trade Promotion Authority to allow the President to sell American goods and services. That's right, Mr. Speaker. The President is and should be the number one salesperson for American goods and services. He must be a leader in International trade, promoting America the same

way he is leading in the international fight against terrorism. American workers need a salesperson.

Now, I say to you, Mr. Speaker and to the leadership in the Congress, the American worker has grown tired and weary of trade agreements which export American jobs rather than American goods and services. The American worker is tired of deep pocket CEO's of major corporations sending their Washington lobbyists to urge the passage of trade agreements and then within a short time announcing a plant closing in the U.S., only to relocate to Mexico or some other country. The American worker deserves trade agreements which promote the products they produce or services they deliver. To assist and ensure the President promotes the American worker, this bill contains legislative language and report language requiring the President, when negotiating with other nations to do the following:

First, it requires reciprocating trade agreements. In exchange for allowing the selling of international products in our nation, it requires the same consideration for American goods.

Second, it requires the President to negotiate on rules of origin for U.S. content in products to be assembled elsewhere and sold back in the U.S.

Third, it requires the President to discuss and monitor the difference in value of currency in the negotiating country when compared to the strong U.S. Dollar.

Mr. Speaker, parameters, such as these are instructions to the President that American workers want to be engaged in the International marketplace. But such engagement must be fair to all, not free to some at the expense of American jobs.

Mr. Speaker, I have full confidence the President will follow these and other instructions set forth by Congress. He has already shown tremendous support for American jobs by calling the hand of those nations which have dumped steel in the United States at the expense of the steel worker. He has called Canada's hand for exporting subsidized soft wood lumber to the U.S. by proving they were engaged in dumping excess lumber at the expense of the American worker. He placed a tariff on lumber from Canada rather than negotiating a new agreement at the expense of the American worker.

Yes, Mr. Speaker, American workers standing on the assembly line need to and want to trade in an international market. But they want to be able to sell their products, not just buy from other countries. This bill will give the President the authority to negotiate and provide instructions on how to approach those negotiations.

I urge passage of Trade Promotion Authority so we can assist American workers with their jobs, sell their goods and services, and keep our economy strong.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, consider the tale of two of my constituents. Greg is a computer software genius at Microsoft. His intellectual property is frequently stolen from him overseas, and he could use a President with Trade Promotion Authority to try to prevent that theft.

And now consider my constituent, John, who came up to me in the lobby of a building the other day and said, ''I just got laid off from Boeing. I am 56 years old. I am worried. I don't know what I am going to do, and I need help.''

For the last 2 months, while we have passed bailout after bailout, this Congress has done nothing for the American worker. Nothing. And we have to learn if we are going to advance a trade agenda, we have to make sure we respect both the Gregs and the Johns of the world.

Yes, you can run over the Democrats on the floor of this House, but you cannot run over the legitimate needs of working people and the environment time after time, and then expect us to develop a trade agenda with the support of the American people.

Vote no on this today. Come back, develop a realistic package of worker protection, and we will pass what we need for our international agenda.

Mr. THOMAS. Mr. Speaker, it is a real pleasure for me to yield 1 minute to my colleague and friend from California (Mr. HUNTER) to speak on this issue since some of you have known his history.

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, in early September, I was gearing up as usual to oppose this Fast Track. And then our country was attacked, and today as we all know, we have Marine expeditionary forces, American carrier battle groups, tactical aircraft, Special Operations forces, in theater, in combat in Afghanistan.

Heading those forces, those American forces, is one man, the American President, and for the next couple of months, in my estimation, more than ever, his successes are going to be our successes, his losses are going to be our losses.

I, as all my colleagues know, do not like Fast Track, I do not like free trade. But I like less the idea of weakening this President in this time of great national emergency.

For that reason, this time, this once, I am voting yes.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), a distinguished leader of Congress.

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me time.

Mr. Speaker, first, I want to adopt the remarks of the gentleman from North Carolina (Mr. PRICE): One minute is too short a time to substantively discuss obviously so important an issue. But I want to say that I reject the rationale of the gentleman from California who spoke immediately before me. I do not believe that a vote ''no'' will weaken the President. What a vote ''no'' will do is strengthen the process in this House.

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The American public elected 435, not 221 or 222, but 435 of us; and they expected us to come together, to work together, to reason together, and to produce a product. I believe had that process been followed, this product would be better.

Like the gentleman from North Carolina (Mr. PRICE) who spoke before me, I have supported Fast Track, PNTR, and NAFTA. Why? Because I believe that trade is an important aspect of the economic well-being of our country and of our workers. But I believe that this process needs to be open; and if so, it will be a better one. Reject this bill.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 30 seconds to the gentleman from Florida (Mr. WELDON) for the purpose of engaging in a colloquy.

Mr. WELDON of Florida. Mr. Speaker, the amendments in section 3 dealing with trade-sensitive commodities would limit the President's proclamation authority so that tariff reductions could not be implemented without specific congressional approval. It is also my understanding that the bill restricts the ability of the administration to reduce tariffs on sensitive agricultural industries. Finally, the bill requires that import-sensitive agricultural products such as citrus be fully evaluated by the ITC prior to tariff negotiations and that any probable adverse effects be the subject of remedial proposals by the administration. Is that the gentleman's understanding?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, yes, that is my understanding as well.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

In the first year of the Bush Presidency, we have lost 1 million manufacturing jobs. We are officially in a recession. The stock market has dropped precipitously. This body has done little for the economy, and this body has done nothing for laid-off workers. They promised us during the airline bailout bill that they would help laid-off workers. They promised us during the stimulus package and the tax cuts for the richest Americans and the largest corporations in this country that they would help laid-off workers. They did not deliver. Now, during Trade Promotion Authority, they are promising again to help laid-off workers.

Mr. Speaker, our history of flawed trade agreements has led to a trade deficit with the rest of the world that has surged to a record $435 billion. The Department of Labor reported that NAFTA alone is responsible, and these are conservative estimates, for the loss of approximately 300,000 U.S. jobs.

Our trade agreements go to great lengths to protect investors. Our trade agreements go to great lengths to protect property rights. But these agreements never include enforceable provisions for public health, for the environment, and for laid-off workers.

Mr. Speaker, I ask for a ''no'' vote on Fast Track Trade Promotion Authority.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. KNOLLENBERG).

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

Today's vote on Trade Promotion Authority is a critical test of our leadership and commitment to creating jobs in this country. Trade equals jobs.

In my home State of Michigan, 372,000 jobs are dependent, dependent upon manufactured exports; and those jobs pay upwards of 18 percent more than the average job. That is good for America.

But here is what is bad. We have a serious problem. Look at the white; look at the red. This map shows that America is becoming isolated, America is isolated, while others expand trade around us.

There are exactly 133 trade agreements that are in place today, but the U.S. is party to only three. That is where we are today. How about tomorrow?

We are leading the world in an effort to eradicate terrorism. We must lead the world in expanding free markets and creating new jobs through trade. Look at this again. This is the U.S., in case my colleagues cannot see. The red is all of those countries, 111 countries that are involved with free trade agreements. We must pass TPA. Let us vote for TPA.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), a national leader.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me this time and for his initiative that he is presenting here today. I, unfortunately, rise in opposition to the legislation before us.

Mr. Speaker, today we have the opportunity to create a new trade framework for a new century. I had hoped to be able to support Fast Track Authority for President Bush, as I had supported Fast Track Authority for his father, President Bush, at an earlier time. I wanted to do this, and I had hopes that we could do so with a trade promotion act that reflected our Nation's concerns about the importance of the environment and workers' rights. If this bill had done so, it would have passed this House overwhelmingly. Instead, if it passes at all, it will squeak through based on a handful of promises. I wish my colleagues to consider the true value of those promises as they cast their votes.

So here we are with an economy in recession and hundreds of thousands of American families struggling with the realities of unemployment.

Mr. Speaker, I urge my colleagues to oppose this legislation. Anyone who does not see the connection between the economy and the environment is on the wrong side of the future. Vote ''no'' on this trade promotion.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

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

Mr. ROEMER. Mr. Speaker, there are some in this Chamber who will not vote for any kind of trade agreement, and there are others that will vote for every kind of trade agreement, thinking it is a panacea. As a New Democrat, I believe in incorporating new ideas into our trade agreements, especially to help our workers.

When I voted for the African Trade Agreement, I heard we would help workers. When I voted for the Caribbean Basin initiative, I heard, we will not forget about the workers. When I voted for the China agreement I heard, once again, we will eventually get to the workers.

Well, it is time now to help American workers and their families. In the Tokyo Round we introduced tariff levels as a new idea. In the Uruguay Round we introduced intellectual property as a new idea. In the Doha rounds we introduced antitrust laws as a new idea, and now we should have the new idea of saying there should be a floor of protecting against child labor, not mandating a minimum wage, but saying, child labor is wrong and it is not going to be in future trade agreements between the United States and other countries. Defeat this bill.

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. WELLER).

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

Mr. WELLER. Mr. Speaker, I rise in support of this bipartisan effort to help Illinois farmers, workers, and small businesses expand their business opportunities.

Mr. Speaker, trade promotion authority or TPA gives the President the authority to negotiate and bring back trade agreements to Congress with assurances of an up or down vote. Now more than ever, our President needs the clout to negotiate trade agreements to protect both the economic and national security of our nation.

America's workers and businesses now export over $1.8 million of goods and services per minute, which fuels economic growth, job creation, and technological innovation. 12 million Americans owe their jobs to foreign exports and more than 25 percent of our $8 trillion economy is tied to foreign trade.

The high tech industry is the largest manufacturing sector in the U.S. by employment, sales, and exports. The high tech sector is also the largest merchandise exporter in the U.S. In 2000, high tech exports accounted for 29 percent of U.S. merchandise exports. TPA allows the access to new markets overseas that the high tech industry needs to expand and grow.

Since 1994, the U.S. has failed to implement a single free trade agreement with any nation. 130 free trade agreements exist worldwide, with the U.S. participating in only two. Open trade will create new markets for our workers, including workers in the high tech industry. TPA will not only spur economic growth, but it will create new jobs and new income.

Mr. Speaker, TPA is especially important to our friends in the agriculture community. My home state of Illinois ranks 5th in nationwide exports of agricultural products by exporting $2.7 billion in 1999 alone. Income from Illinois exports equates to $110 per acre for corn and soybeans.

Even with its huge output of agricultural products, demand for the top five agricultural products from Illinois is growing. NAFTA and GAAT trade agreements help prove that TPA will increase this demand further.

America's farmers export about one-third of their total crop production. Future sales and growth are directly tied to whether the U.S. can negotiate trade agreements with foreign countries. If we don't supply other countries' needs, someone else will!

The time is now to give the President TPA, which has lapsed since 1994. TPA is good for small businesses, the high tech sector, agriculture, and for the economy in general.

I urge my colleagues to vote for H.R. 3005 and give the President the trade negotiating authority that is needed to help jumpstart our economy.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Oklahoma (Mr. WATTS), the chairman of the Republican Conference and someone who understands that this bill is about jobs, about helping the unemployed and, for the first time in the history of a trade agreement, includes labor and the environment.

Mr. WATTS of Oklahoma. Mr. Speaker, the question before us today is the following: Should we vote to stop small businesses and farmers from exporting more of their goods, or should we vote to grow America's export market? Should we ignore the new economy, or should we look for new ways to open new markets?

My home State of Oklahoma is the third largest producer of wheat in the country. We export half of our wheat out of the United States. By giving the President Trade Promotion Authority, farmers will have more opportunities to export their products to new consumers and new markets.

Mr. Speaker, opponents of giving the President Trade Promotion Authority may have had a mainstream argument 50 years ago, but we are in a new century. The arguments being made by foes of expanded trade is rooted in what was, not what is; and it certainly does not think about what can be.

The choice is simple. We can continue business as usual. Our economy is in a recession, corporate profits are down, unemployment is up, and the gross domestic product has dropped at the fastest rate in 10 years. Companies are even skipping their Christmas party this year, trying to save a few bucks.

Or we can look for new ways to give our economy a boost. Allowing the President to have the freedom and flexibility to negotiate down trade barriers and tariffs is good for the economy, good for jobs, good for farmers,

good for small businesses, and good for the consumer.

Mr. Speaker, this is about the old versus the new, yesterday versus tomorrow, walls versus bridges, fear versus competence. It is about America. Our character, our ingenuity, our employees are the best in the world. We can compete with anybody in the world, but we must give the President the authority and the flexibility to trade or to negotiate these barriers and tariffs down that hurt American products.

I ask my colleagues to vote for international trade. Vote ''yes.''

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to my dear misguided friend, the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I think I thank the gentleman for the extra 30 seconds.

I want to thank the gentleman from California (Mr. THOMAS) for his efforts to reach a bipartisan consensus on this bill and the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. LEVIN) for the comity that they have shown us in our efforts, along with the gentleman from California (Mr. DOOLEY) and the gentleman from Tennessee (Mr. TANNER) for the unique partnership that we have been able to forge on this bill.

I rise in strong support of the legislation. Why should Democrats support this bill? I think the first reason, Mr. Speaker, is because of our legacy. Earlier this week, Jeff Sachs commented in the Wall Street Journal that Democrats have a strong legacy of promoting democracy and free trade, highlighting the efforts of Woodrow Wilson, F.D.R.'s initiation of trade liberalization in the Great Depression, Truman's postwar launch of multilateral trade in the GATT, JFK's call for deep tariff reductions, and Bill Clinton's completion of the Uruguay Round and the leadership in founding of the World Trade Organization.

Regarding the multilateral trade negotiations, Sachs pointed out that while this round is being launched under a Republican administration, it might well be completed by a Democratic one. The Dillon Round was launched by Eisenhower and finished by Kennedy. The Tokyo Round was launched by Nixon, but completed by Carter, and the Uruguay Round was launched by Reagan and completed by Clinton.

History tells us, Mr. Speaker, this issue is about how our Nation engages the world over trade issues through the institution of the Presidency, not about a particular President. That is why I supported Fast Track under former President Bush, former President Clinton; and that is why I support granting Trade Promotion Authority now.

Why should Democrats support this bill? Because it advances Democratic trade principles in a meaningful and balanced way. For the first time, ILO Core Labor standards will now be considered on par with commercial interests in the context of trade agreements and negotiations. For the first time, our proposal provides meaningful ways for the U.S. to assist countries in improving their labor standards. Principal negotiating objectives require the President to assist in building the capacities for countries to respect worker rights, the right of association, the right to bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for employment of children, and acceptable worker conditions. The bill also requires countries to enforce the labor and environmental laws. Our bill includes substantive and enforceable standards on labor and the environment.

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for the time.

Why should Democrats support this bill? Because this debate is not one of pure philosophy. It has meaningful and powerful implications for the United States and the world, and we can be sure that the world is watching and waiting for our leadership on this important issue.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Speaker, what are we doing here today? In the midst of a recession, we are debating a bill that will cost even more American workers their hard-earned paychecks that they pour their hearts and their souls into every single day. We have lost over 150,000 jobs in Michigan, 3 million across the country with these bad trade deals over the last decade.

When a factory closes in Detroit or Saginaw or Flint or Kalamazoo, we not only lose those good-paying jobs, we cripple a whole community. We take away the tax base so there is no money there for fire and police and schools and businesses. No one goes unaffected.

Our trade agreements should promote human rights and democracy, they should improve working conditions across the world, and they should protect our environment and the quality of life.

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If we give the President Fast Track Authority, we will have no opportunity to push for these protections. We will abandon our constitutional responsibility. For the American people, Fast Track will be a bullet train to the unemployment line.

Vote ''no'' on the Thomas Fast Track and preserve the voice of the people in our trade decisions.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Minnesota (Mr. RAMSTAD), a member of the committee.

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

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

On behalf of Minnesota jobs, Minnesota businesses, Minnesota farmers, and Minnesota's future, I rise in strong support of Trade Promotion Authority.

Mr. Speaker, the vote before us today is absolutely critical to America's economic recovery and security. It is no exaggeration to call it one of the most important votes we will cast this decade.

Our President needs Trade Promotion Authority so he can open markets for American products, create jobs and get the best deal possible for our businesses and workers.

Every President since President Ford had this important tool in his trade arsenal until it expired in 1994.

Now more than ever, TPA is vital to our economic security. The U.S. economy is increasingly international in scope, and it is clear that expanding trade is absolutely imperative to spur economic growth.

Over 25 percent of the growth in our national economy over the last decade is tied directly to international trade. Last year alone, my home state of Minnesota exported over $17.5 billion in goods and services. This is an increase of over $6 billion in the last decade. Over 270,000 jobs in Minnesota manufacturing exist because of trade, and trade-related jobs pay 13 to 18 percent more than other jobs.

The U.S. is rapidly falling behind in our efforts to sell our products abroad. We are a party to just 3 of the nearly 130 free trade agreements currently in force around the world. And while Europe, our main competitor, continues to negotiate free trade agreements with the rest of the world, the U.S. remains outside the process. Our interests are being ignored.

Mr. Speaker, TPA will help our President negotiate trade agreements that open up international markets for U.S. goods and services. Let's give the President the tool he needs to create jobs, help workers and rescue our ailing economy.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Arizona (Mr. KOLBE), someone who has been a stalwart on trade.

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

Mr. KOLBE. Mr. Speaker, I rise in strong support of Trade Promotion Authority.

Mr. Speaker, much has been made here today about how trade promotion authority can be a real shot in the arm for a struggling economy.

Other members have pointed out how TPA is a critical tax cut for American consumers, workers, and companies. That, too, is true.

However, I want to talk about 3 other reasons why TPA is so critical for America.

First, TPA strengthens our national security. Capitalism, trade, and the rule of law support freedom. Freedom and stable economies support the growth of democracies. And democracies conduct peaceful commerce among themselves. TPA for President Bush is vital to bolster the global trading system. That system is critical to US national security.

Second, TPA is critical if we are going to do more than spout rehtoric about helping the developing world. Each year we pass a foreign

operations bill. While countries appreciate it, it is pennies on the dollar compared to the resources they need and compared to the benefits that might flow from a new round of trade liberalization. Open markets, capitalism, and foreign direct investment are the real tools they need—not foreign aid.

And third, passing TPA is critical to US global leadership. We stand at a pivotal moment in world history. Our country fought two world wars, defeated the Soviet Empire in the Cold War, and adopted a foreign policy to spread democratic values, ideas, and beliefs around the world. We achieved much in the 20th century. We must not put that at risk in the 21st century.

Secretary of State Colin Powell says Trade Promotion Authority (TPA) is ''an essential part of our diplomatic tool kit.'' He urges that we not allow our ''broader foreign policy agenda to be hijacked by the terrorists,'' and points out that ''trade helps create a secure international environment within which Americans can prosper.''

Trade promotion authority is critical for our national security, foreign policy, and US leadership abroad. Vote ''yes'' on H.R. 3005.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as she may consume to gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, our security interests are global. Our economic interests are global.

As we stand here today, since 1990, the European community has negotiated 27 free trade agreements. Do Members understand that every one of those free trade agreements socks in European products, European standards? Their electrical outlets are different than ours. They get into that market, they get their goods in and our goods are out.

We act here on this more as if there are not negotiations that are going to go forward. They are going to go forward. The issue is, will America lead or will America follow. Are we going to allow jobs to be created in America, or are we going to let them go to Europe?

Watch this standards issue. Soon to enter the EU is Croatia. They are about to pass a bill that bans biotech materials. What will that do to agricultural exports from America? Do we not want a President at that table demanding science-based standards?

This is about trade of American products to grow our economy and create jobs. I urge support.

Mr. Speaker, as our security interests are global, so are our economic interests. If we want to create new jobs and protect existing jobs at home, we must open new markets to American products abroad.

Since traditional trading authority expired in 1994, we have lost customers to other countries because they can now sell their goods without high tariffs simply because they have been at the negotiating table and have made trade agreements that shut us out.

Of the 130 existing free trade agreements, America is a party to only 2—with Israel and the NAFTA countries. Since 1990, the EU has completed negotiations on 27 free trade agreements and is currently negotiating 15 more.

The United States has missed out on dozens of opportunities to create economic pacts with other nations that want to buy goods made by American workers. We are now not only losing markets and customers, one by one, but are losing our position as a leader at the table that shapes the international trading system.

By not being there, we allow Europe to set standards that work against American products, slowing U.S. economic growth now and for decades ahead. According to the USDA's Foreign Agricultural Service, Croatia, a country that aspires to future EU membership, currently plans to go further than the EU on biotech Croatia has a draft law in process that would institute an outright ban on any products containing biotech materials. So we simply must have our President at the table to insist on science-based standards to protect and open markets to American products.

TPA is essential for our nation to remain prosperous, and passage will have a great impact on the workers I represent. Connecticut's economy is very export-dependent. Last year, Connecticut's export sales of merchandise totaled $13.2 billion, supporting more than 180,000 jobs. Viewed on a per capita basis, Connecticut ranks 6th nationally, with export sales of $3,860 for every state resident. 85 percent of our exporters were small and medium-sized businesses.

Export-related jobs tend to be good, high-paying jobs. Wages of workers in jobs supported by exports are 13 to 18 percent higher than the national average. Export-related jobs are also more secure, as exporting plants are 9 percent less likely to shut down than comparable non-exporting plants.

Trade agreements do work: Total exports from Connecticut to NAFTA countries (Mexico and Canada) in 1999 were 44 percent higher than 1993, before NAFTA.

They are also good for consumers and are equivalent to tax cuts, as trade agreements reduce tariffs and provide lower-priced goods. The average American family of four could see an annual income gain of nearly $2500 from a global reduction in tariffs and trade barriers—the objective of negotiations.

TPA is good for workers, and good for consumers alike. Furthermore, world trade negotiations are going to proceed. The only issue is will America lead—or follow. At the very moment when our President has provided strong and able leadership, diplomatic skill and sound judgement to unite the world against terrorism and create a more peaceful future, why would we not empower him to provide the same leadership to the economic discussions on which our prosperity and the economic growth of the nation depends?

I urge my colleagues to support passage of this needed legislation.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. ESHOO), a gentlewoman who has worked hard over the years on trade issues.

Ms. ESHOO. Mr. Speaker, I thank the distinguished ranking member of the committee, the gentleman from New York (Mr. RANGEL), for yielding time to me.

Mr. Speaker, I have but a few brief moments to come to the microphone today, not to urge Members one way or the other on the issue that is before us, but to state why, with really a heavy heart, why I am not supporting the first trade issue since I have come to the Congress since 1992.

In my congressional district, which is the home to Silicon Valley, we have scores of unemployed workers. They are part of that two-thirds of the American work force that are not eligible for unemployment benefits because they are contract workers.

I know what the new economy produced. I have faith in the industrial leaders in my congressional district and other places. I believe they will help restore the economic well-being of our country.

But we in the Congress have an obligation to stand next to those workers in my district and across the country that are part of the economic collateral of 9–11 and before that. That is why I rise. I asked for a vote on an economic package that would deal with them first, and on the heels of that, support trade assistance.

So it is with a great deal of regret that I state that I cannot and will not vote for the bill because of it.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Texas (Mr. COMBEST), the chairman of the Committee on Agriculture.

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

Mr. Speaker, I rise today in strong support of H.R. 3005. Trade Promotion Authority is a win for American agriculture. It is a vital tool that the Bush administration must have in order to fight for the American farmers and ranchers in the global marketplace.

In all of my 17 years in Congress, I have never seen a President more committed and focused on American agriculture. President Bush has stated that it is his intention that agriculture remains at the cornerstone of his administration's trade program, that his commitment to the American farmers and ranchers in all aspects is constant and strong.

The President has firmly stated to me that the American farmer and rancher will be the beneficiaries of Trade Promotion Authority, and I intend to work with the administration and the U.S. Department of Agriculture to ensure that the best interests of our farmers and ranchers are kept in the minds of American trade negotiators.

H.R. 3005 clearly provides that the Committee on Agriculture must be involved in all discussions and consultations during negotiations and immediately prior to signing any agreement. As chairman of that committee, I intend to make sure that that happens. I will continue to work with the administration to make sure that American agriculture uses all the tools necessary to compete on the global stage.

I rise today in support of H.R. 3005. Trade Promotion Authority (TPA) is a win for American agriculture and is a vital tool that the

Bush administration must have in order to fight for the American farmers and ranchers in the global marketplace. In all of my 17 years of Congress, I have never seen a President more committed to and focused on American agriculture. President Bush has stated that it is his intention that agriculture remains the cornerstone of his administration's trade program and that his commitment to American farmers and ranchers in all aspects is strong and constant. Therefore I support granting the President trade negotiating authority and urge my colleagues to do the same.

The President has firmly stated to me that America's farmers and ranchers will be the beneficiaries of trade promotion authority. I intend to work with the administration and the U.S. Department of Agriculture to ensure that the best interests of our farmers and ranchers are kept in mind as agricultural trade negotiations proceed. Since U.S. farmers and ranchers produce much more than is consumed in the United States, exports are vital to the prosperity and success of U.S. farmers and ranchers. TPA will give the President the flexibility to take advantage of market-opening opportunities, while maintaining the closest possible consultation with Congress. It is important that American farmers and ranchers see agriculture trade and new trade agreements as a positive force. Officials administering trade issues must both understand production agriculture here at home and the fierce competition in worldwide agricultural trade.

H.R. 3005 clearly provides that the Committee on Agriculture must be involved in all discussions and consultations during trade negotiations and immediately prior to signing any trade agreement. As chairman of the committee I intend to make sure that happens. I will continue to work with the administration to make sure that American agriculture uses all the tools necessary to compete on the global stage, while maintaining our international obligations.

As President Bush has said, the success of agriculture contributes to the strength of this Nation. Our President recognizes that the worldwide agricultural market has been rigged against farmers who play fair. Through trade negotiations we can achieve a more level playing field . . . and, as President Bush says, that is good news for the world's most productive food producers—the American farmers. I urge my colleagues to support H.R. 3005 and grant the President trade promotion authority.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, there are so many problems with the fast-track trade negotiating authority legislation under consideration today that it's hard to know where to begin. In short, H.R. 3005 will cede blanket authority to the President to negotiate future trade agreements that perpetuate and expand the failed U.S. trade policies of the most recent administrations with no meaningful checks and balances from Congress.

These failed trade policies, including the North American Free Trade Agreement (NAFTA), the World Trade Organization (WTO), and most-favored nation status for China, all of which I opposed, have, to varying degrees, contributed to massive job loss and job dislocation, soaring trade deficits, eroding U.S. sovereignty, plummeting farm commodity prices, and degraded environmental conditions. I will speak more about these issues in a minute. But first, I'd like to address the more fundamental question of whether fast-track is an appropriate or necessary delegation of constitutional authority. Proponents of fast-track and H.R. 3005 would have you believe that if Congress fails to grant this special negotiating authority to the President that the U.S. economy and the global economy will come to a screeching halt and allies will refuse to negotiate new trade agreements with us. That is sheer nonsense.

Article I, section 8 of the U.S. Constitution grants Congress the exclusive authority ''to regulate commerce with foreign nations.'' Fast-track negotiating authority, which allows the President to negotiate trade agreements with virtually no input from Congress and forces Congress to vote yes or no on the agreement without the opportunity for amendments, destroys the checks and balances built into the Constitution. This is not a partisan issue for me. I helped defeat legislation twice to grant former President Clinton fast-track trade negotiating authority. My opposition to fast-track is due to my desire to protect the constitutional prerogatives of Congress, as well as my belief that American workers and the U.S. economy have not been well-served by current U.S. trade policies. In essence, in one 62 page bill and one single vote, fast-track delegates four critical constitutional powers of Congress regarding trade. Under the fast-track process envisioned in H.R. 3005, Congress gives up:

The authority to decide the terms for trade—any negotiating objectives set by Congress are not binding on the Administration or enforceable by Congress in any practical way; the ability to enter into trade pacts of its own design—the Administration will sign an agreement, thus locking in commitments, before Congress votes up or down, leaving no opportunity for amendment; the authority to draft laws—the administration will have the authority to write implementing legislation for trade agreements that can change federal laws to conform to the agreement without any additional congressional checks; and, the ability to set the congressional schedule—H.R. 3005 per-sets the floor procedures for final consideration of any trade agreements negotiated with fast-track.

Given this wholesale delegation of our constitutional responsibilities, it stands to reason that fast-track proponents must be under the assumption that all wisdom on trade matters rests with those at the White House, the U.S. Trade Representative's office, and the Department of Commerce. I find that insulting, and given the pathetic record of previous trade agreements, absolutely incorrect.

Mr. Speaker, it is useful to step back and look at the historical basis for fast-track. Fast-track was a Nixon-era presidential power grab. While proponents say that every president since Gerald Ford has had fast-track negotiating authority, what they don't say is that it has only been used a handful of times—to negotiate the General Agreement on Tariffs and Trade (GATT) Tokyo Round and Uruguay Round, the U.S.-Israel Free Trade Agreement (FTA), the U.S.-Canada FTA, and the NAFTA. The Clinton administration alone claimed to have negotiated nearly 300 separate trade agreements. Of these, only the GATT Uruguay Round and NAFTA were done using fast-track. Further, it is not just minor trade agreements that have been negotiated without fast-track. Major agreements like the Jordan FTA, our bilateral agreement on China's accession to the WTO, the Information Technology Agreement, the Financial Services Agreement, and the Basic Telecommunications Agreement were all negotiated without fast-track.

Rather than granting the executive branch carte blanche negotiating authority, it seems that Congress would be well-advised to reassert its constitutional prerogatives and rein in the freelance negotiating done by successive administrations without clear authorization from Congress. This is particularly true since trade agreements now deal with far more than just setting tariff and quota levels, which were primarily of interest to industry. Today's international commercial agreements impact much broader areas of public policy, including the environment, consumer and worker safety, and a vast array of domestic regulatory standards. The public and America's congressional representatives have a greater need to monitor negotiations and have meaningful input into the outcome. That is impossible under the legislation on the floor today.

H.R. 3005 eviscerates Congress' constitutional role on trade. It includes essentially worthless provisions requiring ''consultation'' with Congress by the executive branch. This type of requirement has been routively ignored in recent trade negotiative, and no doubt will be disregarded under the current administration. Proponents of fast-track also claim that the President needs this authority to negotiate trade agreements that will be good for the U.S. economy. If that's what the President was actually going to do, it might make some sense to provide him some leeway. Unfortunately, the record of U.S. trade policy shows otherwise. For example, consider our runaway trade deficit. Last year, the U.S. trade deficit reached a record $435 billion, up from $271 billion in 1999. The trade deficit currently stands at an unprecedented 4.5 percent of the overall U.S. economy. Including interest payments, our net foreign debt is 22 percent of GDP and is on a trajectory to reach 40 percent of GDP in 5 years. Argentina's experience should serve as a warning. Argentina, whose economy is suffering a total collapse with the government threatening to default on its debt, has a net foreign debt of 50 percent of GDP.

Why does the trade deficit matter? The U.S. trade deficit is financed by borrowing, often from foreign investors and foreign countries. This is money that future generations of people living in the U.S. will have to pay back to people living elsewhere, with interest. And when foreign creditors begin to call in their loans, it will be the American worker and the American family who pay the price caused by the indifference of policymakers in Washington. Just ask workers in Argentina.

Is this really a problem? Yes. In December of 1999, well-known market-watcher Standard & Poor's put the U.S. financial system on its watch list of 20 countries that are ''vulnerable to a credit bust.'' Surprisingly, the International Monetary Fund (IMF), which is generally recognized as a tool of the U.S. Treasury Department, has acknowledged the teetering nature

of the present U.S. financial condition. In a recent consultation with the U.S., the IMF noted, ''The sustainability of the large U.S. current account deficit hinges on the ability of the United States to continue to attract sizable capital inflows. Up to now, these inflows in large part have reflected the perceived attractiveness of the U.S. investment environment, but such perceptions are subject to continuous reappraisal.'' In other words, foreign investors could wake up tomorrow, look at the large U.S. current accounts deficit, question whether we'll be able to pay our bills, change their minds about the attractiveness of the U.S. investment environment, and plunge the U.S. into a financial and economic crisis.

As an article in the Wall Street Journal on August 14, 2000, pointed out, ''Although he's often credited with omniscience, Federal Reserve Chairman Alan Greenspan admitted his uncertainty about the trade deficit in testimony before the House of Representatives last month.'' Greenspan testified ''At some point, something has got to give, and we don't know what it's going to be.''

The Chief Economist at Deutsche Bank Research was quoted in the Wall Street Journal saying, ''Confidence in the U.S.A. could abruptly collapse before the rest of the world is firmly back on its feet.'' Mr. Walter went on to say, ''It is, at any rate, not out of the question that capital flows into the U.S.A. will dry up, and that the dollar will take a rapid dive . . .''

Paul Krugman, a mainstream, establishment economist wrote in his column in the New York Times on March 26, 2000, that ''. . . even the most successful economy must sooner or later export enough to pay for its imports. Our current position, where we pay for many of our imports by attracting inflows of capital—in effect by selling the rest of the world claims on our future exports—cannot go on forever.'' Krugman went on to write something that could turn out to be prophetic, ''The trouble, you see, is that in economics, as in life, what you don't pay attention to can hurt you.''

It may not be so far in the future that foreign investors lose confidence in the U.S. economy and the dollar and flee to other currencies as has happened in England, Mexico, Southeast Asia, Brazil, and Russia in the past few years. Of course, then the IMF can come to the rescue, force a structural adjustment program on us, and demand export-led economic growth. Maybe then we can reduce our trade deficit.

Catherine Mann of the Institute for International Economics (IIE) has done research to try to determine at what point deficits become unsustainable. The IIE is a respected, nonpartisan research organization that generally supports unfettered globalization. Ms. Mann examined Canada, Australia, and Finland and seven other economically advanced nations with big trade deficits during the past 20 years. What she found should be a wake-up call to American policymakers. According to her research, 4.2 percent of GDP is the limit a current accounts deficit can research before the economy begins to implode. The U.S. deficit has already reached and surpassed this benchmark.

It is also worth providing a bit of historical perspective. It the early 1970s, the deteriorating trade balance was considered so severe that in August 1971, the Nixon administration made the historic decision to abandon the dollar's gold convertibility and allowed it to float other currencies. What were these shockingly high deficits that led to this decision? A mere 0.1 percent and 0.5 percent of GDP in 1971 and 1972, respectively, minuscule compared to today's deficits. Even the widely heralded ''new economy'', which sacrifices manufacturing in favor of high-technology products and the service sector, is unlikely to improve the trade deficit. So-called post-industrial businesses earn very little from exports and therefore will contribute little to improving our balance of payments problem. Microsoft's exports typically only account for one-quarter of its total sales revenue.

Merrill Lynch is a classic service business. While the firm generates about one-quarter of its revenue outside the U.S., most of it doesn't count as U.S. exports since it generally serves foreign customers from offices in the markets concerned. According to an article in the American Prospect on August 14, 2000, '' . . . it is apparent, that even in a good year, less than 5 percent of the firm's revenues contribute to the American balance of payments.''

Ignoring U.S. trade deficits and continuing to pursue the same-old failed trade policies is not sound policy, and could lead to an economic catastrophe. For this reason, Congress must maintain its constitutional prerogatives on trade, and oppose fast track. Failed U.S. trade policies and subsequent trade deficits have also cost millions of high-paying jobs across the country. H.R. 3005 will help accelerate this job loss by continuing to force U.S. workers—who are the highest educated, best trained, most productive workers in the world—to compete with exploited workers in developing countries who often make only a few dollars a day in dangerous work environments.

Various analysts have identified many negative consequences of massive, persistent trade deficits: a sharp rise in income inequality and stagnation of incomes for average workers; the shifting composition of employment away from high-paying manufacturing jobs with benefits to lower-wage service sector jobs; and decreased research and development spending, which hurts our long-term economic competitiveness; among other problems. According to the Economic Policy Institute, the U.S. has lost 3 million jobs from 1994–2000 due to the U.S. trade deficit. Job-loss associated with the trade deficit increased six times more rapidly between 1994–2000 than between 1989–1994. Every state and the District of Columbia has suffered significant losses. Ten states, led by California, lost over 100,000 jobs each. My home State of Oregon has lost more than 41,000 jobs.

There are many parts of my district in Southwest Oregon that never benefitted from the so-called economic boom of the 1990's. So, while proponents of fast-track will argue that trade has led to a net increase in jobs that proclamation rings hollow to many communities in Southwest Oregon. We've seen our friends and neighbors lose high-paying, family-wage jobs with health care benefits. If they've been able to find work at all after being laid-off, it's for less pay, more hours, and fewer benefits.

In addition to these sometimes abstract, macro-level impacts, U.S. trade policies that sacrifice U.S. jobs and industrial capacity have main street impacts. The micro-level impact of factories leaving small, often single company towns is devastating on families and communities. The domino effect of plant closures has been linked to: increased domestic violence and substance abuse, reduced purchasing power for other businesses in the area that used to depend on higher wage factory workers as their customer base, a reduced tax base that decreases the ability of the local government to provide necessary services, and eventually, population flight that exacerbates the latter two problems.

Of course, it's not just workers who have lost as Congress delegated complete authority to negotiate trade agreements to the executive branch. Farmers and rural communities have been utterly devastated. NAFTA and other trade agreements were held out as a beacon of hope for America's farmers. New market openings were promised in which farmers could sell their surplus crops. All would become rich. This never happened.

While giant agribusinesses exporters have certainly benefitted, the vast majority of family farmers have struggled against a flood of cheap imports from developing nations. In addition, U.S. farmers have, despite commitments to the contrary, been unable to open new markets for their products as other nations stubbornly maintain both tariff and non-tariff barriers to U.S. agriculture products. In addition, trade rules discourage country-of-origin labeling, which could allow consumers to pick U.S. grown produce, beef, or other commodities.

The statistics pointing to the failure of U.S. trade policy for farmers are clear: The U.S. balance of trade in farm products has fallen 57 percent since 1996. Prices for major commodities have fallen nearly 50 percent. 72,000 family farms disappeared in the mid to late 1990s. U.S. farm income is projected to decline nine percent in the next year.

Farmers should be wary of predictions that granting fast track will lead to new export markets. We've heard this all before, and farmers are falling further and further behind. Various forecasts by government agencies, private researchers, and lobbyists predicted steady growth in exports through the 1990s. These forecasts all proved to be backwards. U.S. farm exports dropped 22 percent between 1996–2000. At the same time, farm imports rose by nearly 10 percent.

A series of articles in The Oregonian highlighted the plight of farmers in my state. One article detailed the unfair trade practices by Chilean fruit growers that is causing Oregon farmers to go out of business. U.S. imports of Chilean red raspberries more than doubled between 1998 and 2000. That increased Chile's share of the U.S. market to 36 percent, up from 27 percent in 1998. The U.S. International Trade Commission issued a preliminary ruling in favor of U.S. growers on the allegation of illegal dumping, but the ruling came too late for many family farmers. On the whole, Chile exports $900 million worth of agriculture products to the U.S. every year, around six times as much as it imports.

The story is the same for many other commodities and many other trading partners. Oregon wheat farmers had asked me to support permanent most-favored-nation status for China because of the supposed huge market opportunities. However, China has a massive surplus of wheat and no need to buy U.S. wheat. Shipments by Oregon wheat growers have sat and rotted in Chinese ports.

It is worth quoting Dr. Willard Cochrane, former chief economist at the Department of

Agriculture, at length on the folly of U.S. trade policy as it relates to agriculture. He recently wrote:

It does not make sense to pursue a strategy of pushing exports when the global demand is weak. To sell more of our farm commodities in that situation requires us to price them below the going market price, and thereby pull sales away from our competitors. This would, of course, invite retaliation in which those competitors (like Brazil and Argentina) came back at us by cutting their prices still further. This is not the way to profit from the export market—it is the formula for an expensive price war.

For the U.S., this is a terrible solution. The world prices for products like soybeans and corn are already below the costs of production for most U.S. producers. To expand your sales by selling more at still lower price is no way to get well financially and to stay in business. This practice can only transfer the costs to the U.S. taxpayer, as we are continually forced to provide emergency payments to farmers because of extremely low prices.

The global demand for American farm products cannot be manipulated at the beck and call of American policy makers. Foreign importers are not going to increase their purchase of American food products because U.S. policymakers want them to do so. Imports of American farm products will increase again only as those importing countries pull out of their economic slump and consumer incomes begin to rise.

Fantisizing about solving the price and income problems of American farmers through instantaneous global demand expansion is life fantasizing over winning the Power-ball Lottery. The chances of success are about the same. Farmers generally, and family farmers in particular, would be better served by forgetting about fixing the broken export market for farm commodities, and concentrating their energies on enacting legislation designed to strengthen rural communities, reduce the pollution of America's farmland and rivers, and increase competition among suppliers of non-farm produced inputs on the production side, and among handlers and processors on the marketing side.

I am also opposed to the fast-track legislation drafted by Chairman THOMAS because it will help accelerate the destruction of the environment both here at home and around the world. Further, it will do nothing to ensure basic labor rights for workers around the world. Proponents of fast-track would have us believe that incorporating labor rights and environmental protections that are enforceable in the exact same manner as the commercial provisions in trade agreements is an inappropriate mixture of economic issues with so-called ''social'' issues. That is, at best, a shallow and disingenuous analysis.

Representative SANDER LEVIN, one of the leading Democratic supporters of previous trade agreements, put it best when he said labor and environmental issues ''are fundamentally economic issues that are directly relevant to the structure of international competition. In the domestic context, we don't hesitate to say that 'right to work' laws or emissions standard, to pick two examples, are issues that affect economic competition. Indeed, it was the economic relevance of the right of workers to associate, organize and bargain that made it so central in early, decades-long struggles in our nation. Accordingly, it is illogical and inconsistent to suggest these issues are irrelevant with respect to international commerce and competition. Certainly, labor or environmental issues can have 'social' aspects that may involve humanitarian or human rights considerations, or considerations about conservation of natural resources. But it is unrealistic to suggest that as the issues operate among nations, they are not in substantial measure economic in their nature. Indeed, the intensity of the controversy over them, especially between nations, is in good part because they are economic, and not just 'social.' ''

The Economic Strategy Institute (ESI), a pro-trade think-tank that includes former officials of the Reagan administration has also concluded that these are economic issues and that labor standards are appropriate. ESI economist Peter Morici wrote in his book Labor Standards and the Global System that, ''An international regime that permitted importing countries to embargo or impose tariffs on goods made with exploited labor would increase wages, speed development and increase growth in countries where labor is exploited if these measures caused governments or producers to take corrective actions. . . . Better enforcement of [core worker] rights would likely promote trade that increases incomes and growth, both in industrialized and developing countries.'' He went on to write, ''Permitting workers to bargain collectively reduces distortions in the economy and results in a more efficient allocation of resources, more exports, and higher GDP. In contrast, denying workers the right to bargain collectively perpetuates distortions in the labor market, and results in an inferior allocation of resources.''

That being the case, why do fast-track proponents who oppose guaranteed workers rights favor a lower GDP for developing countries, a distorted labor market, and an inferior allocation of resources? Free traders pride themselves on promoting economic efficiency. Yet, economic efficiency depends on workers having rights. The Thomas bill, H.R. 3005, does not even guarantee that trade agreements will recognize the five core International Labor Organization standards: the right to freely associate, the right to bargain collectively, and bans on child labor, compulsory labor, and discrimination.

Environmental protection receives similarly shabby treatment under H.R. 3005. The bill includes no provisions that prevent countries from lowering their environmental standards to produce an economic advantage. The bill does not require the negotiation of trade agreements that improve environmental standards. Environmental protections negotiated via multilateral environmental agreements (MEA) are put at-risk. Citizens have few, if any, rights to protest when governments fail to enforce environmental laws, or labor laws for that matter. Even the language in H.R. 3005 that supposedly promotes environmental consideration is meaningless since it is non-binding on the administration's trade negotiators.

I have visited the U.S.-Mexico border since the enactment of NAFTA. It is a virtual wasteland. Environmental protection is not a natural result of so-called free trade agreements. Environmental protection must be a mandatory objective, enforceable through the same dispute resolution process as commercial provision in trade agreements. H.R. 3005 falls far short of that standard.

Finally, as if destroying American jobs, rural communities, and the environment weren't enough, the misguided U.S. trade policies that would be perpetuated by the fast-track bill before us today represent a frontal assault on U.S. sovereignty.

H.R. 3005 proposes to expand NAFTA's notorious chapter 11 provision, for the first time, allows a private company to sue a sovereign foreign government in the event a country takes an action that is ''tantamount to expropriation.'' Unfortunately, the definition of ''tantamount to expropriation'' turned out to be extraordinarily broad. In other words, if federal, state, or local elected officials take action, such as through passing a law or regulation, that a company believes unfairly limits their ability to make a profit, that company can sue to get the law or regulation overturned or to get monetary compensation for ''lost profits'' resulting from the action.

We have over seven years of experience with the radical investment deregulation included in chapter 11 of NAFTA. During the NAFTA debate, critics of the treaty, like myself, were told that fears about the forced overturning of consumer safety, health, or environmental laws or regulations were unfounded. Unfortunately, events have proven those fears to have been quite prophetic. A string of chapter 11 cases has forced the repeal of public health and environmental laws in Canada and Mexico, and, at least two cases have been filed against the United States. There may be more, but because of the secrecy surrounding these proceedings, it is hard to know.

In Methanex v. U.S., a Canadian corporation is suing to overturn a California law enacted to protect its clean water supply, and thus the health of its citizens. In Loewen v. U.S., another Canadian company is essentially arguing that the U.S. tort system—whereby juries are able to send strong messages via large damage awards to businesses who abuse, defraud, or endanger their customers—is illegal. In other cases, Canada has been forced to overturn a ban on a suspected toxin, the United Parcel Service has sued challenging the existence of the Canadian postal service, and a Canadian steel company has sued over ''Buy American'' laws for highway construction projects in the United States.

The investor protections included in NAFTA, and those envisioned by H.R. 3005, are much broader than previous investment provisions in international agreements. These investor rights are exercised in secretive tribunals that issue binding decisions without regard to consumer health and safety or the environment. And, these investor protections are increasingly being used by businesses as a first resort to influence the sovereign lawmaking and regulatory processes of individual countries rather than as a last resort for egregious conduct by governments. The end-result forces taxpayers to fork over their hard-earned dollars to compensate corporations for our sovereign right as citizens to protect our health and safety. I believe that federal, state, and local governments should be able to act to protect the public interest without being unnecessarily restrained by trade agreements. Unfortunately, H.R. 3005 says otherwise.

Mr. Speaker, the American people are far ahead of their elected officials in understanding the need to halt and reverse the race to the bottom in labor, human rights, and environmental standards around the world.

A recent study by the School of Public Affairs at the University of Maryland found 93

percent of Americans agree that ''countries that are part of international trade agreements should be required to maintain minimum standards for working conditions.'' Further, over 80 percent wanted to bar products made by children under the age of 15. Seventy-eight percent said the WTO should consider labor standards and the environment when it makes decisions on trade. Seventy-four percent said countries should be able to restrict the imports of products if they are produced in a way that damages the environment. Seventy-four percent also said we have a moral obligation to ensure foreign workers do not have to work in harsh or unsafe working conditions. Polls by other independent organizations have drawn similar conclusions.

Our current trade policies allow multinational corporations to receive all the benefits of expanded trade with no corresponding obligations to workers, public health, or the environment. We must reject the claims of proponents of H.R. 3005 that the choice is between unfettered ''free'' trade or no trade at all.

Let's be clear. Fast-track, and the agreements that would be negotiated with it, are not about ''free'' trade. No one will be arguing for the complete removal of tariffs, quotas, or other barriers to trade. No one will be arguing for the uninhibited movement of citizens. And, no one will propose doing away with patents, copyrights or other intellectual property protections which, while they have an economic rationale, are protectionist and violate the dictates of ''free'' trade. Rather, the debate today is about who will write the rules for trade and who those rules will benefit. I believe Congress must not abdicate our constitutional duty to write the rules, and to do so in a way that benefits average working families, public health and safety, the environment, and the U.S. economy.

I urge my colleagues to oppose H.R. 3005.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means and an active member on trade.

Mr. MCDERMOTT. Mr. Speaker, the last round of negotiations came down with 5,000 pages of rules and regulations. We have today out here in 1 hour set up the process by which we are going to do this all over again.

The majority would have us believe that it is not even worth taking the time to look at any alternative. They say, well, you can have a motion to recommit. We can have 5 minutes to talk about the process by which we arrive at 5,000 pages of trade legislation.

If Members think that is fair, if Members think that is what people sent the 435 of us here to do, they ought to vote for this. But if Members think we need a little more time, and we have been here for almost 11 months, and we come down here at the last minute and we have less than an hour for 5,000 pages.

It does not work. They are going to have to come back again.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, which shares jurisdiction over trade packages, including this one.

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

Mr. DREIER. Mr. Speaker, on this, the 60th birthday of our friend, the chairman of the Committee on Ways and Means, it is important to note that we are on the verge of casting the single most important vote of the 107th Congress. Why? Because it deals with the two very important issues of our economy and the U.S. role in the world, our leadership role.

We know that the attack that was launched on the United States first hit the World Trade Center, where people from 80 nations around the world were killed, and it was the worst attack on our civilian population ever. They knew exactly what they were doing. They were trying to undermine the leadership role we are playing.

The fact is, the world is moving dramatically towards free trade. The President of Brazil said in a speech just a couple of months ago in Portuguese, ''Exportamos o moremos,'' export or die. He understands that very well.

We as a Congress need to give this authority to the President so that he can pry open new markets for U.S. workers, producers, farmers, and businesses.

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

Mr. Speaker, I hope the worst thing that happens today on the birthday of the gentleman from California (Mr. THOMAS) is defeat of this bill and that the rest of the day goes well for him.

But the best thing that could happen for the country is that we defeat the bill and try to do it the right way.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

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

Mr. GEPHARDT. Mr. Speaker, first I want to recognize the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. BONIOR), the gentleman from California (Mr. MATSUI), and the gentleman from Michigan (Mr. LEVIN) for a tremendous job in putting together the motion to recommit that we will be talking about in a few moments. They are truly hard workers, and they truly care about a good trade policy for our country. I thank them for the hard work that they did to put this together.

Mr. Speaker, I rise today to ask Members to vote yes on the motion to recommit; and if it does not prevail, I ask Members to vote no on the underlying bill that has been presented here by the Committee on Ways and Means.

Let me first say that I would have hoped that we could have been on the floor today with worker relief. We are 11-plus weeks since September 11. We have thousands of workers who have lost their jobs.

While we seem to find time for insurance company relief and airline company relief, and now a big trade bill, and lots of appropriation bills, all of which are important and all of which have great support, we cannot seem to find time to take care of the most important thing in front of us.

I said last week, I guess it is because we are not unemployed. If one is unemployed, unemployment is the biggest problem. They cannot get health insurance today. They cannot support their families. I talk to unemployed workers every day. Their problems are right now, this week, today. I would hope that we would get relief for them soon. They need it. We have to do it. They deserve it. Rather than taking up every other manner of bill, I hope we would take that up.

But let me direct my remarks to the bill from the Committee on Ways and Means and why I think it is ill-advised and why the kind of bill that will be presented on the motion to recommit I think is the right way to go.

Let me say that over 20 years now, we have made great progress, in my view, on trade policy in America. Trade policy today is not what it was 20 years ago. There is a good reason for that. In trade negotiations, 20 years ago the only thing that was ever really considered were tariffs. It was a matter of trying to get down high protective tariffs all over the world so that trade would take place between countries.

Today, we have moved way down the road and the issues are not just tariffs, the issues are really about compatibility: how do we get intellectual property laws in countries to be properly enforced; how do we get capital laws to be enforced.

What we have brought to the table and tried to get on the table is the question of whether or not labor laws, human rights laws, environmental laws, health and safety laws, should be just as much a part of trade negotiations as intellectual property laws and capital laws.

Now, we have made a lot of progress. We had a treaty with Jordan that was recently brought to the Congress that dealt with those matters, to the satisfaction of the Government of Jordan and to the satisfaction of the United States.

We now go to another WTO Round. There are lots of other free trade treaties that we want to negotiate, that we should negotiate; but it is vital and important that the full range of issues that should be in those negotiations are on the table in the core text of the treaties.

I was at Microsoft last week, and one of the executives at Microsoft said to me, our intellectual property is still being pirated in China. We are not being paid for our Windows software in China. They can buy it on the street corner, pirated copies. You need to do more, he said, to enforce the intellectual property agreements that are in the treaties with the WTO and now China.

Labor unions, workers, people concerned about the environment, people

worried about health and safety laws have the same feeling about things they care about. At the end of the day, I think what this comes down to is what one worries about.

What do Members care about? If they care about getting wages up in countries abroad, if they think trade is a long march to bring about compatibility across the world so that we have real compatibility in countries, if we really worry about having consumption as well as production, if Members believe we have to build economies all over the world from the bottom up so people have enough money in their pocket to really buy things, then they would agree with me that we need to have a little bit different trade policy that I think is suggested in the motion to recommit, and not suggested in the bill the Committee on Ways and Means brought forward.

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Now, let me end with this. I was in Pueblo, Mexico recently and I met with people in a factory there that went on strike, put together an independent union, something that has not often happened. And they won their strike because the leader of the new independent union, a woman, went to each house of every worker in that plant and got them to support the strike. And they said to me, when I met with them, how great it would have been had we had a provision in a trade treaty with Mexico that they could have used to try to get labor laws in Mexico to be properly enforced so it would have been easier for them to succeed in what they finally succeeded in. One of the first times that it has happened.

I think we need to help people like that in our own self-interest and in the interest of our economy. Trade is a critical issue going forward for this country.

I agree with a lot of the statements that have been made on the other side of the aisle. We are the leader, we are the one that needs to bring trade policies to the world. But in order to do it correctly we have to insist that all the right issues be on the table. And that is what this debate is about.

I urge Members to vote yes on the motion to recommit. I urge Members to vote no if that motion to recommit does not succeed. We can come back here, I am confident if we turn down this ill-advised bill, and we can reach a bipartisan consensus on a trade bill that should get 400 votes on the floor of this House of Representatives. Let us do that and do it very soon.

Mr. THOMAS. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House of Representatives.

Mr. HASTERT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, it is always an honor to take this floor. It is an honor to have these debates because, let no one be fooled, this is one of the defining debates of this Congress. The gentleman who stood up and spoke before, just prior to my taking the floor, is a person who leads the other side of the aisle, a person who I have a great deal of respect for. We do not always agree. As a matter of fact, there are a lot of times we do not agree. But some of the things he talked about today I do agree with.

We talked about unemployed workers. We have seen 700,000 workers in this country lose their jobs since September 11. We need to stimulate our economy. We need to support those things that make this economy work. And one of the ways to do that is to be aggressive, something that we have not been able to do for a number of years; go overseas, make the agreements, make the deals that we have to, sell our products, put our people to work, create jobs in this country, and stimulate and pass legislation that gives the President of the United States the abilities to go out and make those agreements.

We have talked about maybe this bill does not have all of the good things in it maybe other bills did. We have talked about the Jordan trade agreement we just passed a short time ago. But I can tell you, this bill has those agreements in it that were in the Jordan trade agreement. The issues of workers, the issues of environment are put into this agreement, put in this bill.

They talk about being able to negotiate on the international property rights. I understand the problems of trading with China and trading with other places that do not quite have the laws that we have. But unless you have the structure so that our administration and others can go forward and negotiate and lay down the agreements so that we can protect ourselves with international property rights and others, we will never get them, because you cannot do it by waving a wand and you cannot do it by coercion. You have to do it by negotiation, and you have to have the ability to do that.

I stood on this floor 5 years ago to give then President Clinton the ability for Fast Track authority. I did that because I thought it was the right thing to do. I did it because I thought the President of the United States, regardless of party, ought to be able to go out to make agreements and negotiations and then bring them back to this Congress for us to agree with or to disagree with.

Today I rise in support of this legislation giving a new President Trade Promotion Authority. And I urge all of my colleagues to do it. As I said, this is a defining vote for this Congress. This Congress will either support our President, who is fighting a courageous war on terrorism and redefining American world leadership, or it will undercut the President at the worst possible time.

David McCurdy, a former member of this body, now head of a high-tech trade group, said, this vote is every bit as important as our vote to give the President the authority to fight the war on terrorism; this vote is being watched today closely by our allies and by our adversaries.

Ironically, there is more at stake here if we fail than if we succeed. If this vote prevails, the President has the authority to negotiate further trade agreements. That is it. The President still has to bring those agreements back to Congress for approval. If we do not like those deals we can still reject them. But if we vote down this legislation, we send a terrible signal to the rest of the world. We say to the world that the Congress will not trust the President to lead on trade. We say to the world that Congress is not interested in promoting trade. We say to the world that we fight a war around this world on terrorism, that we would rather retreat to splendid isolationism than engage in the world economy.

That is the wrong choice. The world keeps spinning without us. There are 170 free trade agreements around the world that have been negotiated in the last several years. We have been party to two, two, T-W-O, two, one, two, of those agreements out of 170. That means that we have not engaged. We are not there.

We can either watch from the sidelines or we can get in the game. Our high-tech communities, our farmers, our manufacturing sectors, our sectors, they all want us to be in the game. They understand that American leadership on trade means more than American jobs and a better standard of living for our workers.

Many of you are concerned about your constituents. You have a right to be concerned about your constituents. But the constituents in this Nation want us to take steps now to promote long-term economic security now and for the future. American leadership on trade means better economic security for our workers.

Let me conclude by simply saying, reject isolationism, reject protectionism. Vote instead for the American leadership. Vote for American jobs. Vote for better economic growth. Vote to support the President this time, especially in a time of war. Vote for Trade Promotion Authority.

Mr. BENTSEN. Mr. Speaker, I rise in reluctant support of this legislation, which would provide trade promotion authority to the President. Every President since 1974 has had expanded trade authority, but Congress allowed the provision to expire in 1994, and our subsequent efforts to pass TPA have been unsuccessful.

As someone who has supported free and fair trade throughout my Congressional career, the vote on this issue has been particularly difficult because of the process the House Leadership utilized to draft this legislation. More specifically, I believe while real progress was made, more could have been done to address the Democratic concerns in trade negotiations.

I also object to the timing of this measure, which is being considered prior to enactment

of unemployment insurance legislation for those affected by the recession and the September 11 terrorist attacks. I also wish this legislation had incorporated more meaningful language on reform of the trade adjustment assistance program. Only after intense pressure and the prospect of failure did the House Leadership and the White House concede that more must be done meet the needs of American workers suffering from the recession and those who lose their job as a direct result of trade. With my colleague, Anna Eshoo, I have offered legislation that presents a real reform of the TAA program, and I am hopeful that the Senate companion to this bill—S. 1209—is considered in short order by the full Senate, and serves as the primary vehicle for conference consideration.

Despite these concerns, I believe passage of this legislation is needed to produce strong trade agreements that open and expand markets for U.S. goods and service. To create new opportunities for American workers and their families, Congress must support policies that encourage growth and increased living standards in the U.S. Passage of this legislation will send a strong signal to the rest of the world that the President and Congress are prepared to work together to reaffirm U.S. leadership on global trade, and provides much needed momentum to advance new and existing trade negotiations around the world.

While I do not believe the underlying bill went far enough in creating Congressional consultation, I was pleased with the inclusion of language creating a Congressional Oversight Group, comprised of members from all relevant committees, who are the briefed regularly, have access to negotiating documents and become accredited members to the U.S. delegation to ongoing trade negation. This measure also allows Congress to limit the ability of TPA procedures as a result of an Administration's failure to consult. And at the end of every negotiation, Congress retains the most important protection against an agreement that is not in our nation's interest—the right to approve or disapprove the final agreement.

I also believe passage of this legislation is needed to continue to foster economic growth worldwide. Indeed, trade and economic growth provides the mechanism to help our developing countries expand their middle class and improve their standard of living. Since the end of World War II, the liberalization of trade has helped to produce a six-fold increase in growth in the world economy and a tripling of per capita income that has enable hundreds of million of families escape from poverty and establish a higher standard of living. I believe passage of this bill helps us to continue to advance those goals which support not only our economic growth potential, but also helps preserve our national security.

This bill does provide for issue related to enforcement of labor and environmental laws to be principal objectives in any trade agreement negotiated under TPA and that there can be no backsliding on current law. This is a strong achievement when compared to earlier versions including the original Crane bill. This measure requires the President to determine a remedy to meet any non-enforcement, and I believe such a provision provides an Administration with the latitude necessary to negotiate reasonable enforcement provision, without mandating specific penalties—an action that would keep many of our prospective trading partners away from the negotiating table.

It would be wrong to ignore the public ambivalence regarding globalization, and we must recognize that while trade provides an overall benefit, there are those who lose, and the result can be devastating to working families and entire committees. It is important that as the bill works it way through the legislative process, that there is clear followthrough on commitments to provide enhanced unemployment assistance and health benefits. Further, I strongly urge that any final package include an enhanced and expanded TAA provision like that proposed in H.R. 3359. Lacking that, I and others, I believe, will find it hard to support a conference report.

Mr. MANZULLO. Mr. Speaker, as we debate trade authority, let's not forget the fastest growing and most exciting segment of American exporters—our small business exporters. Trade Promotion Authority surely will assist our negotiators in lowering barriers for this most promising engine of our exporting industries. Small businesses and family farmers in America will especially benefit from new trade agreements because exporting is the only sure way they can do business overseas. With Trade Promotion Authority, the President can more quickly ink foreign trade deals that will give our small businesses new markets to sell their goods and services.

The role of small business in our domestic economy is well documented. America's 25 million-plus small companies are the backbone of our economy. They create three of every four new jobs, produce most innovations, and generate over half of the nation's private gross domestic product.

The role of small business in international trade is less well known. In fact, small businesses account for nearly 97 percent of the total number of all U.S. exporters. The number of small business exporters has tripled over the past decade or so, increasing to over 224,000 small businesses directly involved in exporting. Small businesses now account for 29 percent of total merchandise export sales spread throughout every industrial classification. What is more surprising is that the fastest growth among small business exporters has been with companies employing fewer than 20 employees. These very small businesses represented 69 percent of all exporting companies in 1999. Obviously, trade is essential to their future and to all they employ—particularly at a time when our economy is facing difficulties. That's why groups like the Small Business Exporters Association has strongly endorsed H.R. 3005. Please find enclosed a copy of their letter to me.

Our nation also is poised to expand its exports in services, which is the fastest growing sector of our economy and one in which small firms thrive. In fact, the service sector accounts for 80 percent of U.S. Gross Domestic Product and U.S. employment—83 million jobs. These service jobs are good paying jobs—their average annual income of $32,865 a year slightly exceeds the average annual income of manufacturing jobs. Although we in Congress tend to think of trade primarily in terms of goods, our services trade is where we have our competitive edge. The U.S. is the world's largest exporter of services—services such as telecommunications and information technology, insurance, securities, banking and funds management, energy, legal and educational services, accounting, express delivery, travel and tourism. This sector has created more than 20 million new jobs since 1998, generates a $76.5 billion annual trade surplus, and provides the greatest opportunity to increase American prosperity through international trade. To capitalize on our competitive edge and gain the benefits in economic prosperity and jobs, we need to remove the many kinds of complex barriers that now block our trade.

In my own district in northern Illinois, small manufacturers are learning that if they want to remain in business they must begin tapping new markets in Canada, Mexico, and overseas. In 1999, the Rockford metropolitan area exported $857.2 million worth of goods and services, an increase of 64 percent since 1993, to practically every area of the world. As exporting opportunities become known, northern Illinois small and family owned businesses are taking advantage of them. For example, a tool and die business with 40 employees attended a successful trade mission to Mexico with the Administrator of the U.S. Small Business Administration.

Despite these encouraging statistics and trends, there is much more work to do. While small business exporters have more than tripled in number, they still form less than one percent of all small businesses in the United States. Even among these cutting-edge small firms, nearly two-thirds sold to just one foreign market in 1999. In fact, 76 percent of small business exporters sold less than $250,000 worth of goods abroad. In other words, many of these small firms are ''casual'' exporters.

The key is to encourage more small businesses to enter the trade arena and then to prod the ''casual'' small business exporters into becoming more active. If we were able to move in this direction, it could boost our exports by several billion dollars. We need to get these engines of our domestic economic growth fully engaged in the global marketplace. Hopefully, when Trade Promotion Authority is returned from the other chamber, it will contain a provision to create an Assistant United States Trade Representative for Small Business.

Trade barriers are insurmountable for small business. While most large companies can either export or set up a factory overseas, most small business exporters have only one choice—that is to export from America. In addition, there are many complicated issues that face small business exporters, such as streamlining foreign customs practices. Trade Promotion Authority will give the President the tools he needs to negotiate away these unfair trade barriers.

Trade Promotion Authority has been granted to the last six American Presidents. It simply gives the President the ability to negotiate trade agreements in a timely fashion. Once a trade deal is inked, the House and Senate have 90 days to approve it on an up or down vote. Under the version considered today, Congress will be more involved than ever in foreign trade deals because the bill creates a Congressional Oversight Group to oversee negotiations and consult with the Administration throughout the process.

Currently, more than 134 trade agreements exist in the world and the United States is party to only two of them. Trade Promotion Authority would help the President open new markets to American products, knocking down unfair tariffs and foreign trade practices and preserving and creating more high-paying jobs

in the United States. American jobs that involve exporting pay 13 to 18 percent more than other jobs.

Expanded trade is needed now more than ever. In these tough economic times, American workers need work. This legislation will not only preserve jobs, but it will give our employers new markets to increase their business so they can put unemployed Americans back to work where they belong.

Economic studies show that a new World Trade Organization (WTO) round would produce enormous benefits for the United States. If the round reduced existing tariffs and all service barriers by one-third, it has the potential to add $177 billion to the U.S. economy. Removal of all trade barriers would add $537 billion to the U.S. economy, $450 billion of which would be from services.

Services and agricultural negotiations need to be re-energized by a successful new trade round. Nothing would assist American success in these talks, and continuing bilateral and multilateral negotiations, than the passage of Trade Promotion Authority. Without a new round, these negotiations will run out of steam, and our companies, economy, and job-creation potential will suffer.

Renewing TPA will show our trading partners that we have the political will to start and conclude serious negotiations. I urge my colleagues' support of H.R. 3005.

SMALL BUSINESS EXPORTERS ASSOCIATION,

Washington, DC, December 5, 2001.

Rep. DON MANZULLO,

House Small Business Committee, 2361 Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR REP. MANZULLO: As the Chairman of the House Small Business Committee, you are one of Congress, most committed advocates of small business growth and prosperity. The Small Business Exporters Association urges you to act on that commitment tomorrow—by voting for Trade Promotion Authority for this and future Presidents.

This issue is sometimes seen as a struggle between the priorities of big business and big labor. It is anything but. As the nation's oldest and largest association dedicated exclusively to small and mid-size US exporters, SBEA is hearing loud and clear from its members that TPA may well make or break their ability to compete globally.

Though the number of small business exporters in the US has tripled, reaching more than 200,000, smaller exporters face huge new challenges, and our progress is at risk. The high cost of the dollar in foreign currencies and the worldwide economic softening have dealt serious blows to our ability to sell abroad.

We're also losing customers as free trade agreements spread around the world—without the US—and our products grow more expensive as a result.

Big businesses can deal with the high dollar and the free trade agreements by shifting production overseas. Small business can't. Price us out of a market and we're out. America loses the sales, jobs and economic growth.

The vote on TPA tomorrow will send a powerful signal—whether Congress intends to strengthen a strategic growth area of the American economy, or accentuate a downward economic spiral.

SBEA understands that compromises will be necessary in the months ahead. There are many interests affected by US trade agreements. We support those compromises. But a vote against TPA is not a vote for compromise. It is a vote to end the discussion.

We hope that you will stand with small business tomorrow.

Regards,

JAMES MORRISON.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise not in opposition to free trade, or trade promotion authority. I come to the floor today to register my opposition to the form Chairman THOMAS and the Republican leadership have chosen H.R. 3005. For the ''Bipartisan Trade Promotion Authority Act of 2001'' is anything but, simply does not fully address the well founded concerns many Americans have about international trade policy.

Let me begin by stating that I am in favor of sensible, sustainable international trade. The United States is a major part of the global economy, and the health of this nation and its workers depends upon the ability of American producers and service providers to have access to markets to conduct business. It was Democratic President John F. Kennedy who stated, ''A rising tide lifts all boats.'' I firmly believe that in the case of international trade, this sentiment rings true, and that an economically stable world where every nation can aspire to a standard of living that reflects the elbow grease and ingenuity of its people is within our reach.

Mr. Speaker, I have genuine concerns about the current state of the global economy. Over the last two years economic slowdown has impacted the entire world. The Bush administration has finally acknowledged that not only are we in a recession, but that we have been a recession since March. The recent tragedies associated with September 11 and the U.S. Postal Service have shaken the confidence of this nation's workforce even more, and despite the thousands of jobs that have been lost, the families who have suffered the most from the sum total of events have been least on the agenda of the Republican Majority in this Congress.

My own district, Texas' 18th is a glaring example of the competition that exists between ensuring the stability of working families and adapting to the realities of the new global economy. Recently, the economic tide caught up with Enron, a major global employer in my district. Though I have every confidence in Houston to set the ship back on course, thousands of families will be the losers in the interim, and that weighs heavily on my mind.

International trade is vital to the health of my district. The Business Roundtable estimates that exports directly support 10,000 jobs in my district. Another 55,000 jobs with wholesalers and service providers either wholly or partially depend upon export sales. By the same token, though NAFTA has lead to a 100 percent increase in Texas exports to Canada and Mexico, this trade agreement has resulted in severe distress to America's steel industry. It has cost literally thousands of U.S. jobs and forced district manufacturers like Maas Flange to seek and obtain a remedy from the International Trade Commission.

Every Member here today can outline a similar set of tensions when determining the best course of action for their district. In the years since Trade Promotion Authority, or Fast Track, expired in 1994, we have had the opportunity to witness the need for free trade. We have also learned the reality that the trade rules can have a profound impact on labor forces as well as the local and global environments. As a legislator, I take seriously my constitutional obligations to balance these competing interests. Thus, I believe that any system of trade guidelines dispensed to the President should fully discharge our constitutional obligations and responsibilities to our respective districts.

H.R. 3005—railroaded through committee by Chairman THOMAS—does not strike this balance. At best, the legislation pays lip service to the concerns of the labor and environmental communities, and fails to substantively address the concerns of the American people that our trade policy be constitutionally sound.

To begin, H.R. 3005 does not require countries to implement any of the five core ILO standards; the right of association; the right to collective bargaining; bans on child labor; compulsory labor; or discrimination. H.R. 3005 requires only that a country enforce its existing law—whatever law that happens to be. Through proponents of the legislation claim that H.R. 3005 does require countries to consider labor standards, the bill constructs these core standards as mere ''general negotiating objectives.''

Thus, negotiation on, or implementation of, labor considerations in trade agreements enacted under this formula would not be subject to the economic realities of a global trade regime. Instead, they would be subject to the whims of the negotiators and their political agenda. The bill also requires countries to continue to enforce whichever labor standards they have, rather than recognizing the ILO conventions. Consequently, rather than ensuring that we foster positive labor standards with our trading partners in order to keep multinational corporations from exploiting foreign workforces to the detriment of their domestic workers, this bill would encourage it. No greater incentive to stabilize worker conditions around the world is contained in this bill, than in previous versions of Trade Promotion Authority that were voted down by this Body. Yet this bill is supposed to help create and keep American Jobs.

H.R. 3005 also falls severely short of incorporating the environmental externalities associated with international trade as a component part of the trade regime. This bill considers environmental objectives to be ''general negotiating objectives as well.

However, H.R. 3005 does not require any concrete action from U.S. negotiators. The bill requires only that the President ''consult'' with other countries and ''promote consideration'' of Multilateral Environmental Agreements. Thus, the bill contains no real assurances that the environment will be respected. H.R. 3005 would also allow greater rights for foreign investors in U.S. than U.S. firms due to its mimicry of NAFTA's chapter 11 rules regarding expropriation and takings, and it does not address key concerns raised under NAFTA investment rules that allow for the challenge of laws which are ''tantamount to expropriation.'' Last Minute changes to H.R. 3005 in this area are an indication of the flawed philosophy behind the Thomas legislation; the Leadership has paid too little attention too late in this process to convince this Body that labor and the environment are legislative priorities of U.S. international trade, and they should be.

Finally, this bill does not fully discharge Congress' Constitutional obligations regarding U.S. trade. Simply put, H.R. 3005 includes no effective mechanism for congressional participation in developing international trade. The

bill includes only more consultations and a recycled oversight mechanism from the 1988 law that was never used, which requires the Ways and Means and Finance Committees to act as gatekeepers. This function has never previously been utilized effectively, and there is no reason to assume this will change.

The Leadership of this House has made a mistake with this legislation. Recent trade agreements with Jordan and the Andean countries prove that Congressional priorities and international trade can be reconciled. Thus, to send a bill to the floor which does not ensure that the recent trends in U.S. Law are respected is an irresponsible way to conduct trade policy. As such, despite my support of free trade, I cannot support the trade regime fostered by this legislation.

Only H.R. 3019 fosters trade in a manner that considers its effects on workforces, the environment, our national sovereignty, and our constitutional obligations as members of Congress. The bill makes international labor standards a specific negotiating objective of the Free Trade Area of the Americas, and it requires the creation of a Working Group on Trade and Labor within the WTO. H.R. 3019 also provides a real mechanism for members of Congress to play an ongoing role in this increasingly important sector by structuring a review process of ongoing negotiations and increasing congressional oversight of negotiating objectives.

International trade is vital to the people of the 18th district of Texas. So too are their jobs, the environment, and the freedom of our nation. It is our mandate as legislators to balance these interests for the good of our nation. The H.R. 3005 version of trade promotion authority does not do this, and I therefore cannot support it. By putting politics before policy, the Republican leadership has ruined an opportunity to ''lift all boats,'' for only the H.R. 3019 version of Trade Promotion Authority has the opportunity to ride a ''rising tide'' of support to passage.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to H.R. 3005, the ''Fast Track'' Trade Promotion Authority bill and in support of the Rangel substitute in the motion to recommit.

As a member of this House and as a member of the California Assembly prior to my election to the House, I have been a long-time supporter of free trade policies. As a Californian, I understand very well the many advantages that come from open markets, the lowering of tariffs, and the elimination of other trade barriers that prevent American products from competing on a level playing field in overseas markets.

American workers are the most productive workers in the world, and consumers around the world desire quality American products. I strongly believe that given a level playing field, American companies will thrive in overseas markets.

I am also well aware of the value of open markets to American consumers. Americans are shrewd consumers. Their open-minded attitude in considering and purchasing quality goods produced in other countries instills competition in both American and foreign companies which, in turn, lowers prices for American families and increases their real income.

Knowing the many benefits of increased trade between the U.S. and other countries, I voted for the North American Free Trade Agreement (NAFTA), and for many years, I have supported legislation to increase trade, such as ''most favored nation'' status for China. I did so because of promises made to address the negative impacts of free trade agreements on U.S. workers and industries. However, once the trade agreement passed these promises were ignored and forgotten.

Since the passage of NAFTA, on numerous occasions, I have loudly voiced my concerns to Cabinet officials and trade negotiators about the necessity to live up to the promises to help displaced workers.

One such promise was the establishment of the Community Adjustment and Investment Program—CAIP—which was intended to provide financial assistance for American companies located in NAFTA trade-affected areas. In practice however, CAIP did little to help these companies. In fact, CAIP was never of any assistance to the garment industry located in my district, which experienced enormous job losses after the passage of NAFTA. CAIP's overly stringent eligibility requirements completely overlooked textile manufacturing companies too small to qualify or who did not meet the job loss threshold requirements. This essentially makes the CAIP program meaningless and ineffective.

Meanwhile, last year the Los Angeles Times reported that employment in the Los Angeles garment trade dipped below 100,000 for the first time since NAFTA was enacted in 1994, with nearly 13,000 jobs lost since 1997 alone. The jobs lost have almost exclusively been blue-collar sewing jobs.

Knowing that adequate and appropriate safeguards are not currently in place to help our nation's displaced workers, I cannot support extending Trade Promotion Authority to the President. I also cannot support this bill, because it does not sufficiently address my growing concerns regarding issues of labor standards, environmental protections, and congressional oversight on trade negotiations.

I regret that the Rules Committee has recommended a closed rule on this bill specifically blocking Democrats from offering amendments to address the concerns regarding this bill.

However, while I will oppose the Thomas bill, I will support the Rangel substitute in the motion to recommit. The Rangel bill includes provisions that address many of my concerns about labor rights, environmental protections, and congressional review. First, the Rangel substitute sets out clear negotiating objectives for labor standards. The Rangel substitute forbids slave labor, and outlines strict rules on the use of child labor, and on the freedom of workers to associate and bargain collectively. The Thomas bill, in contrast, has no requirement that a country's laws include any of the five core International Labor Organization standards.

Second, the Rangel substitute sets out clear negotiating objectives for environmental standards. The Rangel substitute would commit countries to enforcing their own national environmental laws and prevent them from waiving existing standards for the purpose of gaining a competitive advantage. The Thomas bill does little to ensure that environmental rules established by Multilateral Environmental Agreements have equal status to other provisions of trade agreements.

Third, the Rangel bill ensures a continuing and active role for Congress in setting U.S. trade policy. It does this by replacing the ineffective mechanisms included in the 1988 ''fast track'' law with a procedure for structured biennial review of ongoing trade negotiations subject to fast track. It also gives Congress an opportunity to pass a resolution of disapproval if the U.S. decides to inaugurate a new regional or multilateral trade negotiation. The Rangel bill helps to ensure that Congress is an active participant in important negotiations. The Thomas bill's approach is to view Congress as an occasional consultant.

In short, although it is not perfect, I believe the Rangel substitute addresses most of the legitimate concerns that have been raised about the negotiation of free-trade agreements.

Free trade agreements and free trade policies are desirable goals, but we should never forget that they also impact many Americans adversely. By requiring implementation of labor and environmental standards, together with the active involvement of Members of Congress both Republican and Democratic administrations are likely to construct trade policies consistent with our principles as a society.

The Rangel substitute is the best vehicle for achieving this goal. I urge my colleagues to support the motion to recommit and oppose the Thomas bill.

Mr. LIPINSKI. Mr. Speaker, trade is clearly an important component of our national economy. Accordingly, I strongly support fair trade laws that ensure a competitive foundation for American exports by promoting American values. Fair trade laws ensure that workers and the environment do not get exploited for short-sighted profits; free and unfettered trade agreements trade away American jobs. The language in H.R. 3005 provides hollow promises to the environment and American workers. For years, supporters of these agreements have argued that trade is the cure-all for the American economy. To the contrary, the U.S. economy has been struggling for some time now, and we have empty trade accords to thank for it. We simply cannot have free trade at any cost.

Clearly, now is not the time to pass fast-track authority. In the third quarter of this year, economic activity fell 1.1%; there is virtual agreement that the United States economy is in recession. Last year, the U.S. trade deficit reached a record $435 billion. Including interest payments, the United State's net foreign debt is 22% of the gross domestic product.

Not surprisingly, personal bankruptcies hit an all-time high of 1.4 million this year. The unemployment rate has been rising steadily, and the number of laid-off workers receiving unemployment benefits rose to 3.8 million last month, the highest level since I came to Congress. But there's more: Industrial construction is at its lowest level in 7 years. Since last July, 1.5 million U.S. manufacturing jobs have been lost, and 26 steel companies have gone bankrupt.

These conditions hit too close to home for my constituents. In my home state of Illinois, the fourth-largest economy in the union, economic activity has fallen for seven straight months. Output at factories in the Chicago area has contracted for 14 straight months. Last month, a Clorox plant in my district closed and laid off 95 workers. Furthermore, a 3M tape production facility announced it would be shutting down as well, displacing 270 hard-

working Chicagoans. Both companies cited the global economic downturn as the reason for these closures.

Mr. Speaker, given a fair environment, our workers will out-perform any competitors. But we cannot compete with countries that subjugate their environment and pay their workers 90 cents per day. Now, in the midst of a recession, we are asked to vote to further these problems. I urge a ''no'' vote on H.R. 3005. Now is definitely not the time for fast track authority.

Mr. ROEMER. Mr. Speaker, I rise today to voice strong support for free and fair trade but also my opposition to the Representative THOMAS' Fast-Track bill. As a cofounder and a current leader of the New Democrats, I am dedicated to finding new and innovative approaches to expanding our trade opportunities. Over the course of my six terms in Congress, I have demonstrated a strong record on free trade by voting for the General Agreement on Tariffs and Trade (GATT), the Africa Growth and Opportunity Act, the Caribbean Basin Initiative (BCI), Permanent Normal Trade Relations with China (PNTR), and most recently the Andean Trade Promotion Act.

The global landscape for trade among nations continues to grow in complexity, however, as more nations enter the international market to trade goods and services. Just as we advocate more efficient, fiscally responsible government that encourages economic growth, so must we support free and fair trade agreements that recognize the challenges faced by American workers in the age of globalization. The opportunity exists for the United States to act as a world leader by enacting strong trade provisions that protect the American worker and the environment. The Thomas bill missed this opportunity by failing to enact meaningful labor and environmental standards.

If you look at past free trade negotiations leading up to the Doha Ministerial Conference of the World Trade Organization last month, the incremental increase in complexity and detail involved in trade negotiations is striking. In 1979, the Tokyo Round Agreement included only six areas for negotiation. Some of these issued areas included tariff levels, government procurement, and technical product standards. In 1994, the Uruguay Round negotiations integrated upwards of sixteen areas for trade negotiation including new issues such as intellectual property rights and trade in agriculture. In November 2001, the Doha Ministerial WTO Negotiations included upwards of 26 areas for debate. Among the issues open for negotiation were anti-trust laws, electronic commerce, and product labeling to name a few.

As trade negotiations between nations involve more issues, there is absolutely no excuse to exclude new compliance standards regarding labor and the environment. This is the time for the United States to take the lead to ensure that American jobs are protected at home and that human rights laws are enforced by our trading partners.

The Thomas bill falls well short of a guarantee for strong labor standards. By merely requiring a country to enforce its own existing labor laws, the Thomas bill provides no U.S. leadership on the treatment of the world's laborers. In fact, the five core International Labor Organization (ILO) standards are not even enforced. A commitment to principles like opposition to forced labor and child labor should be non-negotiable priorities of any future trade deals. The Fast-Track proposal does not require that our trade partners agree to these basic standards. Furthermore, an incentive must be in place for our trading partners to achieve fair and responsible labor standards and under the Thomas bill this will not happen.

The Thomas bill falls short of any meaningful protections for the environment, as well. Because only voluntary negotiating objectives are in place, trading partners can lower their environmental standards to gain unfair trade advantages. Furthermore, the Thomas bill does not block foreign investors lawsuits from challenging domestice environmental laws.

In conclusion, Mr. Speaker, during these times of uncertainty brought about by the war on terrorism and an apparent economic slowdown, we must heed the challenge to think anew when it comes to U.S. Trade Policy. We must balance our commitment to trading our goods and services abroad while also ensuring the protection and well-being of our workers. The Thomas bill is unbalanced and would represent a step backwards in our pursuit for free and fair trade.

Mr. GILMAN. Mr. Speaker, I commend the diligent efforts of the distinguished chairman of the Ways and Means Committee, the gentleman from California, Mr. THOMAS, my colleagues and their staff members in drafting and sponsoring H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

This measure has been referred to as the most environmentally and labor responsive legislation regarding Trade Promotion Authority (i.e. Fast Track) to be sponsored by the Congress. However, I share the concerns raised by my constituents in that H.R. 3005's labor and environmental standards do not go far enough to ensure a level playing field in trade agreements. H.R. 3005 refers to environmental and labor provisions as negotiating objectives. Nevertheless, our trade history reveals that during the past 25 years including labor rights, and now environmental rights, as ''negotiating objectives'' do not guarantee that these provisions will actually be included in trade agreements. The geopolitical and trade landscape has changed. Of the 142 members comprising the World Trade Organization (WTO), 100 are classified as developing nations and 30 are referred to as lesser-developed nations. Why is this important? It is important because with China's accession into the WTO, those 130 nations will then become more forceful in promoting their own trade agendas. What H.R. 3005 does is create an incentive for a nation to create a more favorable trade agreement for itself by lowering its environmental and labor standards. At best, many of these nations' labor and environmental standards are substandard.

As drafted, the overall negotiating objective of H.R. 3005 is to promote respect for worker rights. My constituents are concerned that the worker rights provisions do not guarantee that ''core'' labor standards are included in the corpus of prospective trade agreements. By core labor standards, I refer to the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work: freedom of association, the right to organize and for collective bargaining, and the rights to be free from child labor, forced labor and employment discrimination, which many people throughout the world are confronted with.

My constituents are troubled that H.R. 3005 does not require any signatory to an agreement to improve or even to maintain that its domestic laws comply with the standards of the International Labor Organization. Among H.R. 3005's principal objectives is a provision entitled labor and the environment, which calls for the signatories to trade agreements to enforce their own environment and labor laws. Our nation as a leader in the global trade community must set the example by encouraging our prospective trading partners to raise their labor and environmental standards before we enter into any trade agreements with them. In the end, it will be the United States which is called upon to provide the resources to clean up environmental disasters and to bail out collapsed economies that failed as a result of substandard labor conditions.

Through their first-hand accounts, my constituents report that workers in many nations in which we seek to enter into bilateral and multilateral trade agreements are subjected to exploitation, harassment and worse for exercising their rights to collective bargaining, and are forced to work under harsh conditions. For example, in our own hemisphere more than 33 percent of the complaints filed with the International Labor Organization's Committee on Free Association originate in the Andean region. I understand that new labor laws in Bolivia, Ecuador, Colombia, and Peru undermine the right to collective bargaining, and there are scores of reports from NGO's regarding unconscionable violations of the most fundamental rights for workers and their union representatives. The AFL–CIO reports that since January 2001, more than 93 union members in Colombia have been murdered, while the perpetrators have gone unpunished.

How the United States engages in trade negotiations and its practices are crucial not only for our future, but for our democratic process. Since our Nation's conduct is scrutinized worldwide we should set the right example. Events during the recent World Trade Organization negotiations in Doha, Qatar have made this fact even more apparent. That organization is seeking to adopt a worldwide ''Investor-State Clause'' during its next round of discussions. This clause was written into Chapter 11 of the North American Free Trade Agreement (NAFTA) for the purpose of protecting businesses from expropriation by foreign governments. However, its application deviates from its original purpose of protecting signatories from expropriations.

NAFTA Chapter 11 cases such as Methanex v. United States, allow a foreign investor to sue a signatory government if their company's assets, including lost profits and other intangibles are damaged by our laws or regulations. The provisions of Chapter 11 call for an arbitration panel, which meets in secret, and its findings are not subject to public disclosure.

NAFTA's Chapter 11 standard of proof is much lower than what our own courts would require in a commercial case. The standard is whether the regulation illegitimately injured a company's investments and can be construed as an expropriation, which generally requires a physical taking of property or assets, even though in Chapter 11 cases no assets were physically taken. By virtue of this provision, our laws may be challenged in ways not foreseen by our Congress and in ways that are inconsistent with our own court's judicial interpretation, which are rendered irrelevant by

NAFTA's Chapter 11 provision. Methanex is seeking 970 million dollars.

Mr. Speaker, we must seek out ways to make trade compatible with conservation of the environment and by adhering to core labor and environmental standards that are both incorporated into the body of a trade agreement and enforceable.

Accordingly, I am not able to support H.R. 3005.

Mr. TIAHRT. Mr. Speaker, I rise in strong support of the Trade Promotion Authority Act of 2001. This important legislation will allow the United States to negotiate trade agreements in order to increase exports and stimulate our economic recovery here at home. It will also enable the President and Congress to work together to advance our interests around the world by guaranteeing Congress substantial participation in trade negotiations and allowing the President the authority to sign meaningful agreements.

Today's economy is dependent on global trade. Therefore, American businesses must have access to foreign markets. There must be a level playing field. Farmers throughout my state of Kansas depend on foreign markets to purchase significant portions of their crops and livestock. And in a time where productivity exceeds the ability of the domestic market to absorb current production levels, the need to create overseas customers is more important than ever. In fact, Agriculture must export one-third of its production because it is nearly three times more dependent on exports than other sectors.

Mr. Speaker, it's not just agriculture which benefits from free trade. Boeing, the largest exporter in the United States, sells more than half of its commercial planes to overseas customers. Last year, the company, which employs nearly 200,000 Americans, reported that one-third of its sales were to international customers.

Expanded trade has never been more important. Economists agree that America is in a recession and we must work to get our economy moving again, This is an opportunity to boost the economy by opening new markets.

This bill ultimately saves American consumers money, it increases American exports, it creates American jobs, and it guarantees that the United States will remain the world's economic leader.

I urge my colleagues to vote ''yes'' on the Bipartisan Trade Promotion Authority Act.

Ms. HARMAN. Mr. Speaker, this has been a long day in a needlessly partisan fight.

I support Trade Promotion Authority and have voted for it in the past. The bill I voted for in 1998 is not as good as the text before us today.

I represent a trade-dependent district, and understand very well why trade helps our economy.

But context matters. Our country was in a serious economic recession before September 11, and now faces enormous hardships just as the holiday season arrives. Forty-one thousand workers are out of jobs in the communities surrounding Los Angeles International Airport. Their airline and airport-affiliated jobs evaporated in the aftermath of 9–11.

Workers first, Mr. Chairman. Those workers and those negatively impacted by September 11 and trade must be helped first before we pass TPA.

I support the package of worker benefits that the House leadership supports: $20 billion for unemployment, health insurance and worker training. The President has told me he supports it too.

My wish was that working together we could vote and pass it first as evidence that we would keep our promises to workers.

Sadly we didn't. Sadly I can't support TPA today until we do.

Mr. STENHOLM. Mr. Speaker, I rise in support of Trade Promotion Authority. As a lifelong supporter of improved trade opportunities for American producers, my inclination always is to begin with a favorable disposition toward trade bills which come before Congress. I am convinced that American producers can, and do, win with freer and fairer trade. Certainly, not every conceivable trade bill deserves support but, in general, I am strongly persuaded that increased trade opportunities improve the lives and pocketbooks of American workers. I also believe that enhanced trade is a potent mechanism for America to export our values, practices and democracy along with our products.

Unfortunately, early messages from the current administration forced me to question whether enhanced trade authority would be prudently used if granted this year. In particular, I was sorely disappointed by statements by the current Administration which made me doubt their understanding of both domestic and international farm policies and, particularly, the impact of those policies on the producers of our Nation's food and fiber. I am not going to be party to a unilateral disarmament of our farmers and ranchers for someone else's partisan philosophical reasons.

Furthermore, the early handling of this issue by both the Administration and the House leadership confirmed what has appeared to me throughout the year as legislative arrogance. While it may be numerically possible to pass bills with Republican-only votes, ultimately there is a price to be paid for this sort of shortsighted partisanship by either party. Successful trade legislation always has required bipartisan support; when the well of good will has been drained by earlier legislative battles fought entirely on partisan grounds, issues like trade arrive with inadequate troops supporting the effort.

All of that being said, I am reassured both by several conversations I personally have had and by those which have been reported to me from colleagues who share some of my concerns. As a naturally optimistic person, I am willing to hope that this experience might signal an awakening to political and legislative realities by some important players in both the executive and legislative branches.

With my chairman on the Agriculture Committee, I am supporting the trade promotion authority legislation before us today. I do believe that the enhanced congressional consultation and oversight in the current bill are vital for ensuring that our constituents' views and needs are respected by our trade negotiators. I highly commend this and other improvements made by my colleagues JOHN TANNER, BILL JEFFERSON, and CARL DOOLEY.

The truth about trade is that there always are both successes and failures, winners and losers. But for the Nation as a whole, trade is a net positive.

When it comes to agriculture, the successes have outweighed the failures. American farmers and ranchers now make a quarter of their sales to overseas markets; U.S. agriculture consistently enjoys a trade surplus; and next year agricultural exports are expected to reach $54.5 billion, producing a trade surplus of $14.5 billion. But that is just a fraction of what could be possible with freer and fairer markets.

According to the U.S. Trade Representative, NAFTA, and the Uruguay Round have resulted in higher incomes and lower prices for goods, with benefits amounting to $1,300 to $2,000 a year for an average American family of four, NAFTA has also produced a dramatic increase in trade between the United States and Mexico. In 1993, United States-Mexico trade totaled $81 billion. Last year, our trade hit $247 billion—nearly half a million dollars per minute.

U.S. exports to our NAFTA partners increased 104 percent between 1993 and 2000; U.S. trade with the rest of the world grew only half as fast.

Increased trade supports good jobs. In the five years following the implementation of NAFTA, employment grew 22 percent in Mexico, and generated 2.2 million jobs. In Canada, employment grew 10 percent, and generated 1.3 million jobs. And in the United States, employment grew more than 7 percent, and generated about 13 million jobs.

But as I said before, I acknowledge that there are those who do not win in the short run under certain trade situations. For workers who have lost in trade in the past, I also believe that the best—and perhaps only—way to fix what has failed is through new negotiations, which level the playing field. We must speak with a unified voice that is forged through a close partnership between Congress and the executive branches. That is envisioned in the compromise bill.

We in agriculture have only begun to reap the benefits of a half century of trade negotiations under GAIT and the WTO, which have reduced the average tariff on industrial goods to about 4 percent. That is a fraction if the 62 percent tariff that is imposed on our exports of agricultural products.

Indeed, reform of agricultural trade policies begun in the Uruguay Round provided not only additional market access for agriculture but, perhaps more importantly, it provided the necessary framework to improve market access in future negotiations.

Now is the time to press forward with additional trade reforms that will improve market access for our agricultural products.

In addition to tariff barriers, U.S. agricultural exports must compete with subsidies from foreign governments. Europe alone spends 75 times more in agricultural export subsidies than does the United States. In fact, Europe spent $91 billion last year to support agriculture, almost twice the $49 billion spent by the United States.

Europe is aggressively pursuing trade agreements with other countries, already securing free-trade or special customs agreements with 27 countries, 20 of which it completed in the last 10 years. And the EU is negotiating another 15 accords right now. Last year, the European Union and Mexico—the second-largest market for American exports—entered into a free trade agreement. Japan is negotiating a free-trade agreement with Singapore, and is exploring free trade agreements with Mexico, Korea, and Chile.

There is a price to pay for our delay in negotiating new trade agreements. For example,

U.S. exports to Chile face an 8-percent tariff, but Canada exports to Chile without the tariff because of the Canada-Chile trade agreement. As a result, United States wheat and potato farmers are now losing market share in Chile to Canadian exports.

American farmers and ranchers can't afford for us to stand by and watch the world write new trade rules. The United States needs to lead a new round of negotiations, and we need trade promotion authority to do it.

I encourage my colleague to support the compromise bill today and you will be supporting American farmers and ranchers as well as other business men and women who have the capacity to strengthen our economy as well as their own livelihoods if they are just given the chance.

With millions of jobs and billions of dollars at stake, we cannot afford to be partisan or cavalier with this vote. My hope is that this week we will produce not only a legislative victory on Trade Promotion Authority but also a blueprint for greater respect and improved working relations between the parties on substantive national policy.

Mr. UDALL of Colorado. Mr. Speaker, I cannot vote for this bill.

I believe in free trade and am philosophically opposed to protectionism. I am particularly sensitive to the economic challenges faced by the ''high technology'' sector of our economy, and believe that there was an opportunity to craft a bill that would have secured broad bipartisan support on trade. Unfortunately, this bill falls short of that bipartisan promise.

The stakes on trade promotion authority—or ''fast track''—have changed, along with the global trade landscape. Easing barriers to trade no longer simply involves tariffs or quotas. In our increasingly globalized world, trade negotiations involve areas that used to be considered U.S. domestic law—from regulatory standards and antitrust laws to food safety and prescription drug patents, to name just a few.

And because the trade landscape has changed, I—along with many of my colleagues—believe that the way in which we go about negotiating those trade agreements should be different than it has been in the past, when Congress agreed to limit its role in this important aspect of national policy.

Now, even more than before, broad support is needed for any bill that would relinquish the authority of Congress to represent the nation by reviewing agreements or decisions reached by the Executive. If we are going to vote to reduce congressional review and give favorable treatment to trade agreements, we should at least provide that these agreements meet certain minimum standards. The stakes—for American workers and for the environment—are too high for us to do otherwise.

In June of this year, the gentleman from Illinois, Mr. CRANE introduced a fast-track bill that was roundly criticized as not providing a strong enough role for Congress and not addressing concerns about labor or environmental standards. As Ways and Means Chairman THOMAS prepared his revised legislation, many of my colleagues and I had hoped that he might have better understood that building a bipartisan consensus requires consultation of Members on both sides of the aisle. Only then could Chairman THOMAS's bill have correctly been named the ''Bipartisan Trade Promotion Authority Act.''

So I was disappointed when H.R. 3005 was introduced, as it was clear that Chairman THOMAS wasn't willing to work to gain broad support for his bill. In contrast, in my view, the version of the legislation introduced by Ways and Means Ranking Member RANGEL and Trade Subcommittee Ranking Member LEVIN would take important steps in the right direction and would provide a better foundation for developing sound legislation.

But the rule under which this bill is being debated does not even provide for consideration of the Rangel-Levin bill as an alternative. Although the rule does make some slight improvements to the Thomas bill, the changes are too little and too late.

It is incumbent on us in Congress to continue to work to update our trade policy to take account of this changed landscape. That means we need a trade promotion bill that includes a stronger role for Congress, and stronger environmental and labor provisions. The Thomas bill before us does not measure up, and I cannot support it.

Mr. MURTHA. Mr. Speaker, I urge the House of Representatives to reject this ''fast-track'' trade legislation—this bill will not meet our trade goals, and will hurt rather than help our needed economic recovery.

Many industries, such as the U.S. steel industry, are being hard-hit by subsidized foreign imports, yet this bill does not require U.S. negotiators to seek wide protections such as the United States needs from such dumping by foreign countries in key areas such as steel, lumber, cement, and agriculture products.

Moreover, this bill will not attack the key trade steps we need to take—rather, we need a revised U.S. trade policy that will eliminate the record-level trade deficit, protect U.S. jobs and the U.S. economy, and promote U.S. exports. This bill before the House of Representatives will only mean more U.S. jobs lost to overseas, subsidized manufacturers.

The U.S. can compete with any nation in the world as long as the competition is fair, but this legislation will actually encourage other countries to avoid U.S. anti-dumping laws, and worsen rather than strengthen our economy. It also fails to strengthen overseas worker rights and require environmental progress.

Yes, we need a revised U.S. trade policy, but we need one that protects U.S. jobs and stimulates economic growth. This bill does not reach that goal at all, and it should be rejected by the House of Representatives as a statement that we will stand-up for the U.S. economy and protect U.S. jobs rather than sending business and jobs overseas.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 3005, a bill to grant the President fast track trade negotiating authority. The bill before us today is weaker on labor and environmental language than the 1988 fast track bill used to negotiate the North American Free Trade Agreement (NAFTA). As witnessed by the surge of imports and loss of millions of jobs since NAFTA's enactment, Congress must hold the President accountable for negotiating trade agreements that are stronger than that of NAFTA—not weaker.

While gross U.S. exports rose 61.5% between 1994 and 2000, presumably as a result of NAFTA, imports rose by 80.5% over the same period resulting in over 3 million trade-related job losses. California led the states in job losses with over 300,000 jobs lost to NAFTA's explosion in imports. Proponents of the last fast track bill assured us that more jobs would be created than would be lost. Clearly, this is not the case. Now, Mr. THOMAS is asking Congress to support a bill that is weaker than the fast track language used to negotiate NAFTA. I warn my colleagues not to be fooled into believing that promises made to provide benefits in an economic stimulus package to workers who have recently lost their jobs, will come close to justly compensating the millions of workers who have already lost their high-paying manufacturing jobs. Nor will it suffice in protecting those who have yet to see unemployment from the trade negotiations that have yet to be signed.

I want to make one thing clear: H.R. 3005 does not help U.S. workers. This bill is intended to protect and promote multinational investments. The bill neglects to provide any enforceable requirements that the U.S. Trade Representative (USTR) negotiate any of the five core International Labour Organization standards. We need USTR to negotiate an agreement that commits countries to implement and enforce in their domestic laws both the right to associate and bargain collectively, and prohibitions on child labor, compulsory labor and discrimination in hiring. When workers are not given these basic rights, they are exploited. This is what has happened with NAFTA. Workers in the U.S. are given these rights but this is not the case in Mexico. So rather than continue to pay a decent wage to a U.S. union worker, a factory owner can move the business to a country where there are no labor laws and labor costs are lower than in the U.S. Although Mexico has seen a significant increase in manufacturing with NAFTA, Mexican manufacturing workers have seen a 21% decrease in their wages. Mexico's burgeoning middle class has yet to materialize and the working poor have spiraled deeper into poverty. Clearly, the 1988 fast track negotiating authority hurt U.S. workers as much as it hurt Mexican workers. Congress must insist on stronger trade negotiating objectives to protect U.S. workers as well as the exploited workers around the globe. The Thomas proposal fails to do so.

Under NAFTA's Chapter 11, corporations have been given unprecedented immunity from domestic statute through global trade agreements. H.R. 3005 embraces NAFTA's Chapter 11 provisions, which vitiate U.S. statute in deference to foreign corporations. This has the consequences of hurting the environment as well as public safety. Intended as an investor protection measure, Chapter 11 allows foreign-based corporations to seek damages from governments that engage in protectionist behavior and interfere with corporations' abilities to fully realize anticipated profits.

Californians have confronted the ludicrous protections Chapter 11 provides for investors while consumer safety and the environment are made to suffer. The Canadian-based Methanex Corporation has sued the U.S. under NAFTA's Chapter 11 provisions, because California's phase-out of the harmful gasoline additive, MTBE, has hurt the price of Methanex stock. MTBE contaminated California's drinking water due to underground gasoline storage tank leaks. Logically, California lawmakers have ordered the additive out of their gasoline, even if it means slightly higher gas prices at the pump. However, if the

closed-door NAFTA dispute panel decides in favor of Methanex, taxpayers could be slapped with a billion dollar fine. The Thomas proposal before us does nothing to address this egregious flaw in the NAFTA agreement. In fact, it encourages similar provisions in future trade agreements.

The current fast track bill being considered does nothing to protect U.S. jobs, does nothing to protect the environment and does nothing to protect U.S. consumers. Until such issues are addressed in binding legislative language. I cannot support fast track trade negotiating authority. I encourage my colleagues to do join me and vote no on H.R. 3005.

Mr. PAUL. Mr. Speaker, we are asked today to grant the President so-called trade promotion authority, authority that has nothing to do with free trade. Proponents of this legislation claim to support free trade, but really they support government-managed trade that serves certain interests at the expense of others. True free trade occurs only in the absence of interference by government, that's why it's called ''free''—it's free of government taxes, quotas, or embargoes. The term ''free-trade agreement'' is an oxymoron. We don't need government agreements to have free trade; but we do need to get the federal government out of the way and unleash the tremendous energy of the American economy.

Our founders understood the folly of trade agreements between nations; that is why they expressly granted the authority to regulate trade to Congress alone, separating it from the treaty-making power given to the President and Senate. This legislation clearly represents an unconstitutional delegation of congressional authority to the President. Simply put, the Constitution does not permit international trade agreements. Neither Congress nor the President can set trade policies in concert with foreign governments or international bodies.

The loss of national sovereignty inherent in government-managed trade cannot be overstated. If you don't like GATT, NAFTA, and the WTO, get ready for even more globalist intervention in our domestic affairs. As we enter into new international agreements, be prepared to have our labor, environmental, and tax laws increasingly dictated or at least influenced by international bodies. We've already seen this with our foreign sales corporation tax laws, which we changed solely to comply with a WTO ruling. Rest assured that TPA will accelerate the trend toward global government, with our Constitution fading into history.

Congress can promote true free trade without violating the Constitution. We can lift the trade embargo against Cuba, end Jackson-Vanik restrictions on Kazakhstan, and repeal sanctions on Iran. These markets should be opened to American exporters, especially farmers. We can reduce our tariffs unilaterally—taxing American consumers hardly punishes foreign governments. We can unilaterally end the subsidies that international agreements purportedly seek to reduce. We can simply repeal protectionist barriers to trade, so-called NTB's, that stifle economic growth.

Mr. Speaker, we are not promoting free trade today, but we are undermining our sovereignty and the constitutional separation of powers. We are avoiding the responsibilities with which our constituents have entrusted us. Remember, congressional authority we give up today will not be restored when less popular Presidents take office in the future. I strongly urge all of my colleagues to vote NO on TPA.

Mr. OXLEY. Mr. Speaker, a vote in favor of Trade Promotion Authority today will be a vote in favor of U.S. workers, it will be a vote in favor of increased exports, and it will be a vote in favor of economic growth.

This bill will have a positive effect on all aspects of the U.S. economy, not the least of which will be the services sector.

Last year the U.S. exported $295 billion in services, compared to imports of $215 billion, leading to an $80 billion surplus in services trade.

Between 1989 and 1999, 20.6 million new U.S. jobs were added to the economy in service related industries. These knowledge-based jobs account for 80% of the total private sector employment in the U.S.

Today we have the opportunity to either expand this number by voting in favor of H.R. 3005, or to begin to erode these impressive figures by denying the President the tools he needs to negotiate strong free trade agreements.

As Chairman of the Financial Services Committee I understand how important this bill is to maintain our competitiveness in the international arena. Earlier this year, the Committee held hearings in which representatives from the insurance, banking and securities industries testified that barriers to overseas markets will severely affect their ability to compete with foreign based financial service providers.

Financial services firms contributed more than $750 billion to U.S. Gross domestic Product in 1999, nearly 8% of total GDP. Over 6 million employees support the products and services these firms offer. TPA will eliminate impediments to foreign markets and enable financial service providers to continue to act as the engine that drives economic growth.

Approximately 80 percent of the world's GDP and half of the world's equity and debt markets are located outside the U.S. More than 96% of the world's population resides overseas, with India and China alone accounting for 2.3 billion people. Many of the best future growth opportunities lie in ''non-U.S.'' markets.

If U.S. service providers cannot access these markets or operate on a level playing field overseas we will be left behind by foreign financial service providers.

I strongly urge my colleagues to join me in supporting H.R. 3005. Our workers need it, our exporters need it and our economy needs it.

Mr. SHAYS. Mr. Speaker, trade promotion authority enhances the United States' ability to negotiate agreements that help American workers and businesses. Just as we can't repeal the laws of gravity, we can't ignore the fact that we live in a world with a global economy.

It is estimated if global trade barriers could be cut by just one-third, the world economy would grow more than $600 billion each year. Talk about economic stimulus—this is it!

Trade promotion authority will open new markets. Without this authority, trading partners will not put forth meaningful offers. Tariffs on American products won't be reduced, and our economy will grow at a much slower rate.

Passing this bill signals to the world we are committed to global trade and free markets. It allows the United States to take a leadership role in building international trading systems based on American principles of market-based economics and fair play.

Giving the President the authority to negotiate trade agreements is good for Connecticut, the United States and every country involved.

Exports accounted for almost one quarter of all U.S. economic growth in the last 10 years. Trade promotion authority should pass without delay.

Mr. PALLONE. Mr. Speaker, this debate on ''Fast Track'' is not about whether or not the U.S. should be participating in the global economy—we all agree on that. This debate is about HOW we are going to participate in that economy.

In this time of economic recession, I feel that we have responsibility to the American worker and the workers around the globe to ensure that American labor standards are enforced globally. It is unacceptable that American jobs are being shipped overseas to countries that refuse to pass or enforce minimal labor protections.

As many of us can remember all too well, Fast Track Trade Authority was last used to pass the North American Free Trade Agreement (NAFTA) in 1993. While the Administration claims that NAFTA is a resounding success, I contend that this is far from the truth.

It is estimated that NAFTA has cost nearly 1 million U.S. manufacturing jobs and tens of thousands of family owned farms to go out of business. In my home state of New Jersey, alone, it is estimated by the U.S. Department of Labor that more than 20,000 jobs were directly lost due to NAFTA's scope.

NAFTA has also been a disaster in the area of environment protection and public health. Since passage, pollution also in the U.S. Mexico border has created worsening environmental and public health threats in the area. Along the border, the occurrence of some environmental diseases, including hepatitis, is two or three times the national average, due to lack of sewage treatment and safe drinking water.

This is unacceptable. In my mind, no matter what this Administration promises, Fast Track only causes the quality of life in America to be compromised.

My friends—I say, fool me once, shame on you. Fool me twice, shame on me. I urge my colleagues—don't be fooled again. We have already allowed the word of past Administrations cost thousands of American jobs and further destroy our environment. Let's not make the same mistake again.

Vote ''no'' on Fast Track.

Mr. DAVIS of Florida. Mr. Speaker, I rise in support of H.R. 3005, the Bipartisan Trade Promotion Authority Act (''TPA''), which will open up new markets for our businesses here in the United States. This bill is about breaking down trade barriers abroad and expanding opportunities for American workers. This legislation recognizes the reality of today's global economy and equips our country with the tools necessary to maintain America's leadership throughout the world.

I would be remiss if I did not voice my concern about the timing of today's debate. At times like this, we must work together. Yet for a number of understandable reasons, this bill is far from enjoying bi-partisan support. Nevertheless, I do not control the agenda; thus, here we are debating the bill without the fullest support it could enjoy.

The evolving nature of the trade debate is evident. Instead of discussing whether to address labor and environmental issues in the text of TPA and future trade agreements, Congress is discussing how to address these concerns. I believe this bill has taken a giant step forward since the last floor vote in 1998. While not perfect, for the first time ever in a TPA bill labor and environmental standards will receive parity in enforcement alongside subjects covered in trade agreements such as foreign investment and intellectual property. This is in stark contrast to the Archer TPA bill which called for preventing countries from weakening labor and environmental standards to attract investment but was silent on enforcement. Clearly, H.R. 3005 moves the trade debate forward.

Mr. Speaker, the simple fact that 96 percent of the world's consumers live outside of our borders is irrefutable evidence that in order to grow our economy, we must grow our exports. Hence, international trade is critical to our nation's continued economic expansion.

An estimated 12 million jobs in the United States depend on exports of goods and services. Furthermore, opening markets has created more than 20 million new jobs in the US since 1992. Jobs related to exports generally pay as much as 18 percent more than the national average. Consumers also benefit in the form of affordable prices for many products. In fact, our existing trade agreements provide annual benefits of $1,300 to $2,000 for the average American family of four from the combined effects of lower prices and increased income.

Free trade is not exclusively for the giant business conglomerates. Our trade agreements enable small (less than 100 employees) and medium size businesses (less than 500 employees) to compete in international markets. According to the Department of Commerce, in 1998, more than 92 percent of Florida's 22,295 exporting companies were small and medium sized businesses. In the district I represent, 85 percent of exporters are small businesses that employ fewer than 100 employees.

Mr. Speaker, international markets are vital to my state's economic well-being. Florida's economy is export-dependent, with export sales of $1,515.00 for every state resident. Florida merchandise and agricultural exports support an estimated 183,700 jobs, while service industry exports support an estimated 364,000 jobs. Last year, in the Tampa Bay area alone, nearly 500 local companies and independent business people profited from approximately $2.6 billion in exports to international markets.

My fellow colleagues, we need to pass TPA as soon as possible. Unless we pass TPA, our businesses and workers will be forced to sit on the sideline and watch our global competitors take advantage of free trade agreements. Of the more than 130 free trade agreements (FTAs) in force worldwide, only 3 include our country. One of our main trade competitors, the European Union, has free trade agreements with 27 countries.

Mr. Speaker, the Free Trade Area of the Americas (FTAA) will be virtually impossible to negotiate by 2005 without TPA. The FTAA is setting the stage for significant trade opportunities—particularly, the opportunity to assure that the rules of trade that will be developed are fair and sufficiently advantageous to our country. It is an agreement that will benefit 34 countries, consisting of 800 million people with a combined GDP of $13 trillion. The potential benefits of increased trade with Latin America for our nation and the State of Florida are tremendous. In Florida, Latin America and the Caribbean are our most important markets, accounting for about 80 percent of all exports from the state. Furthermore, over the past three years, eight of the top 10 Florida-origin export destinations were FTAA countries. As for Brazil, one of Florida's largest export destinations, the average Brazilian tariff on U.S. goods is almost 14 percent, compared with under 3 percent for Brazilian products entering the U.S.

Mr. Speaker, as I have said in the past, I recognize that increased global competition will put some industries at risk and that with the overwhelming number of winners there will be some losers. We will have to work harder to ensure every American worker can participate in our global economy, and the government has an important role to play in educating, training and retraining today's and tomorrow's workers with the skills they need not just to survive but to prosper in an increasingly global economy.

By passing TPA, the Congress is delegating a significant amount of authority to the executive branch. Thus, it is essential that the Congress have a meaningful role during the trade negotiating process, while recognizing the importance of providing flexibility necessary to the United States Trade Representative (USTR) to negotiate the best deal possible for America. In the future, I expect the executive branch to work closely with the Congress throughout any trade negotiations as required by this legislation.

Mr. Speaker, in conclusion, this legislation is critical for the United States. TPA will empower the President to negotiate trade agreements that will open more markets for American goods and services, create jobs, and reduce costs for farmers, workers, consumers, and entrepreneurs. Refusal to pass TPA would put American workers at a disadvantage.

I urge my colleagues to vote ''yes'' on H.R. 3005.

Mr. EVANS. Mr. Speaker, my district is composed of hard working Americans who build tractors, refrigerators, and furnaces. Blood, sweat and tears are what brings home the bacon in my district. But their way of life is endangered by both this bill and our flawed trade policy.

This year, two steel mills in my district closed their doors forever. I have witnesses numerous other manufacturing plants close because they are not allowed to compete fairly against foreign imports. Some of these very companies have reopened facilities overseas only to export their products back into the U.S.

In the past few months, I have assisted hundreds of my layed-off constituents in filing for unemployment and TAA benefits. These hard working folks have lost their jobs because we have set course on a flawed trade policy that puts cheap imports ahead of their good paying jobs. Trade Promotion Authority is a dangerous leap of faith for an administration that has pursed a unsound trade policy.

Our flawed trade policy has most recently led to the demise of our nation's steel industry. The inaction of Congress and the willingness of the President's chief trade negotiator to eliminate anti-dumping regulations has driven US steel into the ground. And we want to give them even more authority to negotiate trade agreements?

Mr. Speaker, my district is blessed with thousands of acres of the most fertile farmland in the country where John Deere revolutionized agriculture with the invention of the steel plow. The farmers in my district have struggled as corn and soybean prices have dropped in half over the last five years. In these times of rock bottom crop prices, they depend more than ever on farm subsidies. But, in the infinite wisdom of our trade policy we have offered to eliminate these indispensable price supports. I cannot in good faith support a fast track bill at the same time the administration tries to kill the price supports that my farmers depend on.

I am further ashamed our flawed trade policy does little to further human rights. We blindly turn our heads when countries use children, prisoners, and slave labor to undercut American workers. This does not represent the values of the people I represent, but it represents the trade policy of an administration that now wants even more latitude in trade negotiations.

Mr. Speaker, I am proud to represent a working class district, where folks still make a living by the sweat of their brow. I made a promise to protect their jobs and support their economic security. This administration has instead pursued a flawed trade policy and has let them down at every major trade negotiation. They now want even more latitude in negotiating trade agreements. My Colleagues, I cannot and will not support this administration's request for fast track authority and urge you to vote against this bill.

Mr. POMEROY. Mr. Speaker, I rise in opposition to H.R. 3005, a bill to provide the President with the authority to negotiate international agreements and submit them to Congress for and up-or-down vote, without amendment.

Last month, the United States and other members of the World Trade Organizations launched a new round of trade negotiations. The members agreed to a far-reaching agenda, covering topics from e-commerce to manufactured goods to financial services and, most importantly to North Dakota, agriculture. With such an ambitious agenda to tackle, an agreement is not expected for at least four years.

For agriculture, the new agenda gives us cause for both hope and concern. On the positive side, the agenda calls for the eventual elimination of export subsidies, which the Europeans have used to rob market share from U.S. farmers. In addition, the efforts of some countries to reopen prior agreements in order to erect scientifically unjustified barriers to U.S. commodities were rejected. The agenda's commitment to achieve substantial new market opening measures also stands to benefit U.S. farmers, who earn $1 out of very $3 from export sales.

On the hand, I am troubled that U.S. trade officials have so freely offered to negotiate our export credit guarantee program, which is not an export subsidy but a program to help finance U.S agriculture exports at commercial rates. I am concerned that the new round of negotiations could expose our sugar beet industry—worth $1 billion annually to the Red River Valley—to unlimited imports of subsidized product sold dump market prices.

What's worse, even as our government was putting the export credit and sugar programs squarely on the table, the Europeans were staunchly defending their own subsidies and the Canadian government was declaring the Wheat Board to be off-limits. Although U.S. attempts to ''lead by example'' in trade negotiations may win points with free-trade theorists, it will not in win trade agreements. We should vigorously defend our programs and yield concessions only when we receive concessions in exchange.

The farm bill debate has also reflected what I believe to be the Administration's flawed approach to trade policy. Among its reasons for opposing the House farm bill, the Administration said that restoring a price safety net for family farmers would undermine our trade negotiating position. I believe, quite the contrary, that a renewed commitment to our farmers in the form of strong farm bill improves our negotiating position. If the U.S. withdraws support for our farmers unilaterally, what incentive do the Europeans have to negotiate away their tremendous subsidy advantage?

The negotiations launched earlier this month have a long way to go. Only time will tell whether our hopes for American agriculture will be realized or our concerns will prove well founded. Before these negotiations have even begun, however, Congress is being asked to approve fast track, a bill authorizing the President to negotiate trade agreements and submit them to Congress for an up-or-down vote, without amendment.

I believe it would be unwise to approve fast track before we know whether these negotiations are headed in a positive direction for American agriculture. Let's make sure that the Europeans will not be allowed to maintain their overwhelming subsidy advantage and that the Canadian Wheat Board won't be able to continue to exploit its monopoly position to the detriment of our farmers. Let's make sure that our sugar industry won't be hung out to dry and that the Administration won't try to undo our domestic farm program in trade negotiations.

Once we have greater confidence that these trade negotiations are serving the interests of our farmers, we can move forward with fast track authority. Until our concerns have been addressed, however, we should not give our trade negotiators the blank-check they are seeking. For now, there are too many open questions for us to give up our right to amend future trade agreements.

Mr. STEARNS. Mr. Speaker, this country is in a new era. We have not faced such times of trepidation since the Cuban Missile Crisis. It is well established that countries who trade, who are engaged in business with one another, are less inclined to fight, and more willing to cooperate among mutual beneficial matters. Ultimately, trade is about freedom and economic prosperity. And in some cases, prosperity has been the case for certain sectors of the American economy.

Unfortunately, such has not been the case in my district in Florida. There are number of small farmers and businesses who were decimated by NAFTA and imports from Mexico. Promises made by our government were promises un-kept. The specific provisional relief promised to the tomato growers, for instance, was applied for after implementation of NAFTA, and subsequently these farmers were denied that relief.

Under NAFTA, Florida exports in total agriculture products dropped from $6.1 million to 1.9 million between 1993 and 1996. Only in the year 2000, did exports climb above the 1993 level—but the damage was done.

Earlier today, the House voted to reauthorize the Trade Adjustment Assistance program, a program designed to aid workers and firms who have been affected by the impact of foreign trade. This program alone serves as a reminder that not everyone in our country benefits from free trade . . . including small farmers and businesses in my district.

Now I understand the need to engage in free trade and I support free trade. However, I also support fair trade. Additional provisions have been included in HR 3005 that allows for greater consultation among Congressional committees regarding import sensitive commodities. The language also recognizes the need to treat such products in a different manner during trade negotiations than other products. Though I am grateful for the attempt at addressing these issues, I believe it does not go far enough.

Without adequate protection and enforcement of our trade laws, and the ability to provide sufficient relief for affected markets—such provisions are less than meaningful.

I have had the opportunity to speak with the President regarding my concerns and those of my constituents. I understand the need to use Trade Promotion Authority as a tool in the war against terrorism and to address our faltering economy. We are at war. And for that reason these are special circumstances. The President needs to be supported and he can use this agreement to help America in its fight against terrorism. For this reason I am voting for Trade Promotion Authority.

Mr. ETHERIDGE. Mr.. Speaker, I rise today to speak about H.R. 3005, the Trade Promotion Authority Act.

The vote on this bill has been a very difficult decision for me. My home county and my hometown have been hit hard in recent months by layoffs and closures of textile manufacturing plants. In many of these towns, several generations of families have worked at these textile plants, and when the plants closed our way of life was shaken and our hometown identities were forever changed.

I hurt for each and every worker who has lost a textile job and for each and every family that faces economic uncertainty as a result of these layoffs. We must provide them generous assistance to meet their short-term needs. We must provide them the education and training to equip them with the skills to fill 21st century jobs. And we must pass policies for economic growth that will create those employment opportunities.

But, Mr. Speaker, the fact is that defeating Trade Promotion authority will not bring back a single textile job that we've lost. Defeating Trade Promotion Authority instead will wave a white flag of surrender to our economic competitors around the world and will mean fewer jobs to replace the ones we've lost.

The workers in my home state have proven that we can compete and win in the world economic arena. Last year, my state's export sales totaled $15 billion, a 10.3 percent increase in one year. In the seven-year period between 1993 and 2000, North Carolina's exports grew by 88 percent. Those exports fueled tremendous economic growth, created unprecedented employment opportunities and placed North Carolina at the forefront of America's global economic leadership.

In the latest available data, North Carolina depends on manufactured exports for 285,600 jobs. That is the seventh highest total in the United States. 6,869 companies—including 5,609 small and medium-sized businesses—export from North Carolina. The number of companies exporting from North Carolina rose 79 percent between 1992 and 1998. Our state is truly export-dependent, and we need Trade Promotion Authority to break down barriers to overseas markets so that our technology, agriculture, manufacturing and other sectors can expand on our progress in international competition. If we fail to gain access to these markets, it is a guaranteed fact that our overseas economic competitors will exploit that opportunity and deal a huge blow to our global economic leadership. Every $1 billion in exports creates 20,000 jobs here in America, and a successful multilateral trade agreement could reasonably result in expanding exports by $200 billion a year producing 4 million new jobs here in America. And jobs supported by exports pay significantly higher wages than jobs that only support domestic markets. Clearly, expanding exports is the key to expanding prosperity for American workers, and Trade Promotion Authority is the key to expanding exports.

It is important to note that this bill is not itself a trade agreement. It simply provides the President the authority past Presidents, both Democrats and Republicans, have traditionally enjoyed to negotiate with our trading partners to obtain the best deal possible for America's economy. I want the President to know that I intend to hold his feet to the fire to make sure he looks out for the best interests of my constituents in those negotiations. And I want the committees of jurisdiction to exercise their Congressional oversight role vigilantly. I certainly reserve the right to oppose any trade deal that is not in the best interests of North Carolina, and I will not hesitate to exercise that right. I have voted against trade deals in the past. In short, I'm going to be watching these negotiations like a hawk.

Finally, Mr. Speaker, I am compelled by the fact that we are a nation at war. All Americans are united behind the President as he and our nation's military seek to rid the world of the terrorist threat. Although I may disagree with the President on some of his domestic policies, this is a matter of major international importance.

In conclusion, I will vote ''yes'' on H.R. 3005, and I urge my colleagues to join me in doing so.

Mrs. MORELLA. Mr. Speaker, I rise to express my support for H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001.

I have the honor to represent Montgomery County, Maryland, a county rich in high technology such as communications technology and biotechnology. Trade is important to our economy.

I believe Trade Promotion Authority will be good for the economy of Montgomery County and the State of Maryland as well as our country. Trade is important to our economy; last year Maryland sold more than $5 billion worth of exports to nearly 200 foreign markets.

Trade is also good for Maryland's entrepreneurs and small businesses. The number of Maryland companies exporting increased 51 percent from 1992 to 1998. This is significant;

more than 81 percent of Maryland's 3,472 companies that export are small- and medium-sized businesses. Trade data also shows that an estimated 58,900 Maryland jobs depend on manufactured exports. One in every seven manufacturing jobs in Maryland—24,700 jobs—is tied to exports. Wages of workers in jobs supported by exports are 13 to 18 percent higher than the national average. Maryland exported an estimated $200 million in agricultural products in 1999.

Indeed, Maryland has benefited from previous trade agreements. For example, total exports from Maryland to NAFTA countries (Mexico and Canada) in 1999 were 56 percent higher than 1993, before NAFTA.

This negotiating authority expired in 1994, and during that time other countries have been moving forward with trade agreements while the United States has been stalled. There are more than 130 preferential trade and investments agreements in the world today, and the United States is a party to only two.

The European Union has free trade or special customs agreements with 27 countries, 20 of which it completed in the last 10 years. And the EU is negotiating another 15 accords right now. Our inaction hurts American businesses, farmers, ranchers, and workers as they find themselves shut out of the many preferential trade and investment opportunities.

Mr. Speaker, I believe in free and fair trade and a strong economy. In times of growth our Nation has been able to move forward on important social issues and make the world a better place for all.

Mr. COSTELLO. Mr. Speaker, I rise today to discuss the trade policy of the United States. We are scheduled to vote in the House of Representatives this week on approving Trade Promotion Authority (TPA), what used to be called ''Fast Track'' Authority. I will vote against it, as I did in 1998. I will do so for several reasons, but primarily because the United States has signed few effective trade pacts in recent memory. Since the early 1980s the United States has become the greatest debtor nation in the world, and that trade deficit continues to grow, with devastating impacts for the working men and women of this country. While corporate CEOs continue to earn record-breaking salaries, their employees face reduced wages and benefits or worse—they are laid off while their jobs are moved abroad. We continue to export good, high-paying American manufacturing jobs to places like Mexico and China, where workers are paid little and enjoy few protections from abuse.

I agree that we need to create export markets for our goods, especially our agricultural products. To that end, I have voted to end the trade embargo against Cuba. However, this must be done on terms that are fair to the United States. The list of unfair reciprocal trade agreements we currently have with other countries boggles the mind. Our products are taxed at extremely high rates in those countries, while their products enter our markets virtually tax-free.

The supporters of TPA will tell you that the President needs this authority to negotiate trade pacts, such as the next round of world trade talks that has been put in motion by the recently concluded conference in Doha, Qatar. But TPA is not necessary to negotiate trade pacts. In fact, TPA expired in 1994, and we have reached several bad agreements since then, notably terms to allow China to enter the World Trade Organization, a deal I also did not support. The only thing TPA guarantees is that Congress is shut out of the negotiating process, left to ratify whatever agreement the President negotiates. And when the time comes to vote, Congress is told that while this might not be the best deal, it is the only one on the table and that we cannot waste the years it took to reach it by it voting down. It is a vicious cycle that imprisons American workers, and I will not vote to revive it.

The North American Free Trade Agreement is a good example of this process. Eight years ago, the passage of NAFTA brought many promises: 200,000 new jobs annually in the United States; higher wages for Mexican workers; an increased trade surplus with Mexico and a cleaner environment and improved health in the boarder regions. In fact, the opposite has happened—none of these promises have materialized.

Supporters of NAFTA promised great things for America's trade surplus with Mexico and Canada. These, too, have failed to materialize. While gross exports to NAFTA countries have increase dramatically—147 percent to Mexico and 66 percent to Canada—imports from these countries have increased more dramatically. U.S. imports have increased 248 percent from Mexico and 79 percent from Canada. The trade deficit with Mexico and Canada was nine billion dollars in 1993; by 2000, it had ballooned to $60 billion. NAFTA was supposed to reduce these numbers. Instead, the trade deficit has increased.

Instead of creating 1.6 million jobs over eight years, NAFTA has eliminated 766,000 jobs. In my home state of Illinois, over 37,000 people have lost their jobs as a result of NAFTA. These were the good paying manufacturing jobs I referenced above. Most of these jobs have been relocated to Mexico, where the labor and environmental standards are lower than in America.

Even if American jobs were not relocated to Mexico and elsewhere, many companies have leveled this threat at their employees. Workers are told if they do not agree to the company's terms, their jobs will go to Mexico. As a result, workers settle for contracts with lower wages and fewer benefits in collective bargaining. This occurred recently with the Tower Automotive plant in my congressional district. A recent newspaper article described it this way, ''Earlier this month, Tower Automotive has said in order to save money, it was subcontracting the Lincoln Aviator program to Metalsa, a company in Monterey, Mexico.'' Fortunately, Tower Automotive decided to stay in the U.S., but the threat to move remains as an option for Tower and other businesses.

Since the enactment of NAFTA, wages for industrial workers in the United States have decreased. These workers comprise 73% of our nation's industrial workforce and account for most of our middle- and low-wage workers. When manufacturing jobs leave the country, displaced workers who can find work generally receive pay that is 13% less than they received in their previous job. These jobs are primarily in the service industry, where wages pay only 77% of those in the manufacturing sector. The jobs lost as a result of NAFTA were good paying jobs held by individuals who most likely do not have a college education. These workers have a harder time finding reemployment and need these jobs the most.

The trade deficit is not only a problem of the rich getting richer and the poor poorer—it is a national security issue. Our nation is currently at war. In the aftermath of the terrorist attacks of September 11th, the U.S. military is engaged in military actions against the Taliban and Osama Bin Laden. Young Americans are putting their lives on the line every day to defend the values of this great nation. Does it make sense that while American troops are in harm's way, the U.S. is rapidly losing its ability to produce steel due to the flood of illegally imported steel? If the current trend continues, we will not have a steel industry in the U.S., leaving our national defense vulnerable.

In September, I testified before the International Trade Commission regarding the Section 201 investigation into U.S. steel imports. I represent the 12th Congressional District of Illinois, which includes Alton, Granite City, and other areas with great steel traditions. Sadly, Alton is no longer a steel town. Laclede Steel announced in July that it will shut its doors permanently, ending an 86-year history in Alton and throwing 550 employees out of work. The impact on the local economy has been severe. Of course, Laclede is not alone. Since 1997, 26 domestic mills have filed for bankruptcy. This trend must not be allowed to continue. The hardworking men and women of the United States and their families cannot bear the price of misguided foreign industrial policies any longer.

However, the U.S. representatives at the Doha conference did not see it that way. Even after the House of Representatives passed a resolution requesting that the president preserve the ability of the U.S. to rigorously enforce its trade laws, particularly anti-dumping laws, the American representatives at Doha permitted the anti-dumping regulations to be re-examined. If allowed to happen, this will further damage American steel producers.

So where does U.S. trade policy stand on the week of the vote to grant the president TPA? A record of unfair trade agreements that ignore worker rights and environmental protections, hundreds of thousands of good, high paying manufacturing jobs continuing to leave the country, and vital American interest left close to extinction. Not a pleasant picture.

Mr. Speaker, given this bleak backdrop, I will not vote for TPA. It will minimize the role that Congress plays in trade agreements at a time when congressional oversight is needed most. The Bush administration has demonstrated by its action in Doha that it does not have the best interests of American workers in mind. Congress must work to ensure that more damage is not done. I urge my colleagues to join me in fighting for the American worker by opposing Trade Promotion Authority.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in reluctant opposition to H.R. 3005, the Trade Promotion Authority Act.

Words probably cannot fully convey how disappointed I am in being forced to vote ''No'' on H.R. 3005. Up to now, since coming to Congress in 1993, I have compiled a pro-trade voting record that is second to none. I have supported NAFTA, U.S. entry into the WTO, normalizing trading relations with China and Vietnam, expanding trading relations with the countries of sub-Sahara Africa and the Carribean, and most recently to establish free trade with Jordan. I strongly believe that, our nation has the most to gain from opening new

markets and improving upon a rules-based trading system.

I am also disappointed because I fully appreciate the extraordinary effort put forth by my friends, Mr. JEFFERSON, Mr. TANNER, and Mr. DOOLEY, in helping to craft this bill. Throughout this process, they were willing to listen to concerns that I and other members expressed. They performed admirably in pushing forward Democratic principles in negotiating this bill with the majority. Their steadfastness produced a great deal of progress in addressing concerns on how trade impacts labor and the environment and in addressing the plight of recently displaced workers.

The majority has represented enactment of trade promotion authority as economic stimulus that will help pull the nation out of the current recession. I also recall the Administration representing this bill as something we must pass in the context of our war against terrorism. I don't doubt that expanding trade is in the national interest, but both of those arguments are exaggerated and misplaced. Trade does create better jobs for American workers that pay higher wages and add more to the economy. However, trade's benefits manifest themselves over the long-term; passing this bill will have very little effect on pulling the economy out of the current recession.

It is in the context of this recession and the September 11 tragedy that I have weighed my vote on trade promotion authority. Passing trade authority may well be in our national interest, but over the short term, it will not do anything except add to the anxiety that workers who have been or are on the verge of being laid off are experiencing now. Conscience dictates that before I support granting trade promotion, I must ensure that their immediate needs and concerns are addressed. I have concluded that Congress and the Administration has fallen well short of what we must do in this area, and for this reasons, I must vote against H.R. 3005.

On September 21, we passed a bill to provide immediate financial assistance to the airline industry in the wake of the September 11 tragedy. Some of my colleagues objected on the grounds that we should provide assistance contemporaneously to the workers laid off by the airlines. I supported that bill because I understood that maintaining the viability of the airline industry was necessary to preserve the jobs of those who were not laid off. I was also assuaged by assurances that we would have a bill on the floor the following week to provide assistance to airline workers. That promise was not kept.

September 11 also exacerbated the recession that the country has apparently been experiencing since Spring. Following the tragedy, there was bipartisan agreement that Congress should pass an economic stimulus package to speed recovery and to provide broad safety net assistance to workers affected by the recession. Instead, the majority rammed through the House a tax package providing tax breaks on offshore profits, accelerated capital gains, and retroactively repealing a provision in the tax code that ensures that corporations are not able to wholly avoid paying taxes. At the same time, the bill provided a minimal level of unemployment and health care assistance to laid off workers. Besides not bringing our country out of recession, the bill was essentially a slap in the fact to working class Americans.

Now, we are on the verge of voting on H.R. 3005. Several weeks ago, I indicated to its principal supporters that in order to attract my support, I would have to witness real progress on helping displaced workers, and not just vague promises and commitments. In response, Chairman THOMAS unveiled several new items. Principal among them is a provision in the TAA bill to provide $2 billion over 2 years for workers affected by the September 11 attacks. The Chairman also signaled his intention to offer proposals relating to health insurance and extension of unemployment benefits in the context of the ongoing negotiations with the Senate over the stimulus package. I appreciate Chairman THOMAS' good faith efforts, particularly his willingness to include a provision to suspend federal income taxes on unemployment benefits. This is actually a bill that I personally introduced earlier this Congress.

These proposals fall short of what I would like but they do appear to be substantial progress. Unfortunately, since they do come at the last minute, there is a great deal of uncertainty regarding whether this is enough. Furthermore, the bulk of these proposals would need to be included in a final stimulus package, in which negotiations are ongoing over contentious issues. I am basically being asked to trust that these proposals will be improved upon where necessary and enacted into law, in spite of the fact that we have had months to do complete work on these items.

I have concluded that I owe it to working class Americans that I should not simply take a leap of faith. For too long, they have been suffering while Congress has sat on its hands. I do not think it is unreasonable for us to wait on passing TPA legislation until we have passed legislation to help the unemployed.

I am fully willing to revisit this issue if, later in this Congress, we do in fact provide the relief that displaced workers deserve. Today, however, my vote is ''no.''

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to H.R. 3005, the Fast Track Trade Authority bill.

The President has requested Fast Track Trade Authority whereby Congress agrees to consider trade agreements without amendment and with limited debate. The administration says that unless we pass this bill, it will not be able to finalize a new round of worldwide trade talks or complete smaller trade deals.

This is simply not true. Without Fast Track Trade Authority, the Clinton administration negotiated more than 300 trade agreements. President Bush has finalized the Vietnam-U.S. Bilateral Trade Agreement and begun work on the Free Trade Agreement of the Americaas.

Denying Fast Track Trade Authority at this time will not hinder the president's ability to negotiate large multi-national trade agreements. The World Trade Organization will not finalize the next round of the General Agreement on Tariffs and Trade (GATT) for at least another five years.

Fast Track Trade Authority is actually a tool to aid powerful corporations searching the globe for cheap labor by ignoring basic workers' rights, environmental safeguards, enforceable sanctions, and Congressional input.

H.R. 3005 includes negotiating objectives promoting worker rights, yet these objectives are hollow. The bill relies on the self-enforcement of a country's worker rights laws.

This bill does not require trade agreements with clear provisions to protect workers' rights. It does not require countries to agree to adhere to the International Labor Organization's core labor standards, including bans on child and slave labor.

American needs trade agreements that instantly go before a dispute settlement panel if a country violates internationally recognized labor standards, such as the right to collective bargaining. All trade agreements need enforcement provisions which allow for prompt and full compliance with a dispute settlement panel's decisions.

Proponents of Fast Track Trade Authority believe that the Trade Adjustment Assistance program we reauthorized today will assist individuals who will lose their jobs to future trade agreements. Workers who lost their jobs to NAFTA will vouch that this program cannot replace their jobs and does not provide the health benefits that they desperately need while looking for new jobs. All of us want to help workers and should support this program, but the reauthorization does not overcome the weaknesses of Fast Track Trade Authority.

H.R. 3005 states that environmental concerns are a negotiating objective of trade agreements, but it only requires consultative mechanisms for strengthening trading partner's environmental and human health standards.

The Thomas fast-track bill will expand controversial ''investor'' rules that empower foreign corporations to sue over environmental laws if laws, regulations, or court orders interfere in any way with a company's ability to do business.

H.R. 3005 requires the president to consult with Congressional committees and prepare reports about child labor and the effectiveness of enforcing workers rights. These provisions do not give Congress the power to ensure that trade agreements conform to basic international labor provisions and environmental policies.

With the economy in a recession and 7.7 million unemployed Americans looking for work, we cannot expose working families to unfair trade agreements that allow corporations to move into countries with weak labor standards.

We cannot expose workers to flawed trade agreements such as NAFTA that cost American workers 766,030 jobs in the steel textile, apparel, manufacturing, and other sectors of our economy.

I urge my colleagues to vote against H.R. 3005 and protect our environment and American workers from unfair trade agreements.

Ms. SOLIS. Mr. Speaker, For my colleagues pondering their vote on Fast Track Trade Negotiating Authority. And for the American public. I ask you to envision this scene. It was August, 1995. In my district—El Monte, California.

Not two years after the North American Free Trade Agreement narrowly passed this House.

During a pre-dawn raid, the Immigration and Naturalization Service comes to the rescue, literally, of seventy-two Thai immigrants working in a garment factory.

I say ''working,'' but what I really mean is involuntary servitude. These women, forced into slave labor, worked eighteen hours a day in a seven-unit apartment building that served as a sweatshop. Actually, a prison. Some of the women had not been let out of the filthy factory surrounded by razor wire for seven years.

Now, many of you find it hard to believe this kind of horrific scene could take place in the United States. Well, it did happen. And not only did it happen in my community, it happens in communities throughout the world.

The United States should not reinforce the existence of such horrific practices. And yet, we do—at the behest of a global economy. The presence of sweatshops here and abroad corresponds directly with trade levels.

The number of workers employed by maquiladoras in Mexico has tripled since the passage of NAFTA. Now, that may sound good to some. But, you must look close at the picture.

Workers caught in maquiladoras on our Southern border are faced daily with extremely low wages and unsafe labor practices. Take the Han Young factory in Tijuana, Mexico for instance. The Han Young factory manufactures parts for Hyundai trucks. This factory has repeatedly failed to provide a safe working environment for its employees. The company refused to provide safety shoes and glasses, chemical resistant gloves, respirators, and face shields. There are even puddles of water beneath high-powered cables—and faulty cranes that repeatedly dropped tractor trailer chassis while they were being worked on. And when the workers tried to band together to create a bargaining unit in order to remedy these serious health risks—the company engaged in a campaign of intimidation in order to stop unionization.

Our unbridled pursuit of trade is leading to the further exploitation of the poor throughout the world. I agree that we must engage in trade. However, the most powerful country in the world should be committed to engaging only in fair trade. Our trade agreements must include labor and environmental protections. For, if we do not take the lead on these issues, who will? And, if the plight of the working poor is not enough to persuade you to support a fair trade agreement, please consider the harm that will come to our environment. Many of my Republican colleagues understand the importance of protecting our global environment.

And we need only look to the Qatar World Trade Organization negotiations to understand that our U.S. Trade Representative does not consider the environment to be priority. In fact, while in Qatar, the USTR agreed to revisit the status of international environmental treaties already in effect. These negotiations could lead to further destruction of our environment by enabling the WTO to review these agreements. Environmental agreements should not be subject to review by an organization whose sole purpose is to promote business and trade. As we have learned from our environmental movement here, business interests many times conflict with environmental interests. Trade agreements and environmental agreements should remain independent of each other in order to maintain the integrity of both.

Join me in opposing H.R. 3005. This version of Fast Track does not ensure safety to workers nor safety to our environment. The world looks to us as leaders in trade. Therefore, we should fulfill that role responsibly and include enforceable labor and environmental protections in all of our trade deals.

Ms. LOFGREN. Mr. Speaker, From the debate thus far on Trade Promotion Authority (TPA), it is clear to me that the legislative process works best when Democrats and Republicans move forward together. Unfortunately, the effort to pass TPS this Congress is a poor demonstration of Congress' ability to cooperate and compromise. At this particular moment in American history, I find that troubling.

I would like nothing better than to vote for the passage of TPA. Over the past several years, I have supported almost every free trade measure to come before the House of Representatives because I believe that the health of the American economy is dependent on new and more open markets. I believe that the future wages of the American worker are dependent on our ability to do two things: secure new markets for American goods and services and enhance the education and skills of our current workforce.

But markets do not open overnight. Negotiating new and more open markets is a complicated process made even more complicated by the procedural process in Congress. Without a straight up or down vote on a trade agreement, Congress could be bogged down forever in amendments and in congressional politics. If the congressional amendment process came into play, our President would no longer have the credibility to negotiate agreements. All 435 Members of the House cannot be the American trade negotiators.

I understand this. I believe that the President, Democrat or Republican, should have the flexibility that TPA affords to negotiate and pass trade agreements.

But the details of TPA do matter. The USTR has moved from negotiating tariffs to non-tariff barriers to trade. What this means is that instead of just negotiating reductions in tariffs, our trade negotiators will be negotiating substantive changes in American law.

In the next round, the plan is to make changes in antitrust laws. The protections currently provided by the American patent system may also be amended through trade. Copyright protection is up for discussion. These laws, antitrust and intellectual property, are enormously important to the economic viability of the United States. Just as American laws are harmonized in trade negotiations, the role of Congress's Congressional Committees must evolve from procedural consultations to ones that are substantively consultative.

While I have raised this issue again and again over the past several months, the Thomas bill has left this issue unaddressed. Interestingly, a role is provided for review of agricultural policy as well as for financial services. But are potatoes and rice more important that patents and antitrust laws? I think not.

The USTR must submit to the relevant Congressional Committees, including the Judiciary Committee, and not just to the Ways and Means Committee, information that informs Members which provisions of existing US law are being changed.

Just a few years ago, I was surprised as a Member of the Judiciary Committee to find that I could not insert a salary floor amendment into a bill pertaining to H–1B nonimmigrants because we had made a trade commitment in the General Agreement on Trade in Services not to put in such a condition. An alternative system that was negotiated, but not approved by Congress, was inserted by GATT. This made it impossible for Members of Congress to make changes to domestic law without violating US trade obligations. When I asked my colleagues on the Committee if they had heard of such a change in the law, I got a lot of blank looks. They were as surprised as I was.

And I'm not surprised that they didn't know because the implementing legislation of the Uruguay Round Agreements was hundreds of pages long.

Such changes are not limited to immigration law. The same thing could happen in a area like antitrust if an agreement on competition policy is reached. Professor Daniel Tarullo, a Professor of Law at Georgetown University wrote in a letter to Senator LEAHY that a ''competition agreement in the WTO could seriously compromise the integrity of US antitrust policy and for that matter the competition policies of other nations.''

We know that antitrust law is explicitly ''on the table'' for the next round. While I don't disagree that this is an appropriate topic for discussion, I cannot agree that US antitrust laws should be changed without the review and involvement of the Judiciary Committee.

The Judiciary Committee should have the same access to these issues as the Agriculture Committee has relative to agricultural issues in the Thomas bill. While I do not support a unduly burdensome process, I believe there must be a happy medium between the Rangel and Thomas approaches. That is why I believe we should wait to vote on TPA.

Again, I would like nothing more than to vote for a Trade Promotion Authority measure that takes into consideration the proper role of Congress and its Committees. I appreciate the ways & Means Committee's work on this bill, but we are not there yet.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in opposition to H.R. 3005, which is similar to a bill that failed two years ago, that establishes expedited procedures for congressional consideration of trade agreements negotiated by the President. Under H.R. 3005, the Trade Promotion Authority Act (TPA), the Administration would be required to consult with Congress before signing a trade agreement, but once the agreement is formally submitted to Congress, both houses must consider the agreement within 90 days without amending the tentative agreement.

As a New Democrat, I believe in the fundamental concept of free trade. Eliminating unfair foreign trade barriers leads to greater exports by the United States and potential increases in production. It is important that America not be left on the sidelines as trade agreements are negotiated without our participation. However, free trade must occur on an equal playing field.

Unfortunately, this particular, H.R. 3005, does not sufficiently address important concerns that were expressed two years ago. For example, this legislation does not require countries to implement any meaningful standards on labor rights. These include the five core International Labor Organization (ILO) standards: the rights of association and collective bargaining, bans against child labor, compulsory labor, and discrimination.

The bill simply details negotiating objectives on labor rights, but does nothing to ensure that any final trade agreement will actually include those provisions. In addition, this legislation simply requires a country to enforce its existing law—however weak that law may be.

Furthermore, this bill contains only voluntary negotiating objectives on the environment. It

does nothing to prevent countries from lowering their environmental standards to gain unfair trade advantages, and would do nothing to protect multilateral environmental agreements from trade challenges. Moreover, it does nothing to block foreign investor lawsuits from challenging domestic environmental laws. Future trade agreements could include provisions like Chapter 11 of the North American Free Trade Agreement (NAFTA) which allow foreign investors to undermine U.S. environmental, safety, and health law on the basis of unfair trade.

Lastly, I am concerned over the lack of congressional action prior to the signing of any trade agreement; only consultations. Congress may vote on a disapproval resolution, but only to certify that the Administration has ''failed to consult'' with Congress. Moreover, under this bill Congress would give up the right to amend trade agreements—even those that are controversial and which dramatically alter domestic law—in exchange for optional negotiating objectives. Any trade agreement should be under the purview of the House of Representatives, not the House of Consultants.

I am disappointed that these issues were not resolved prior to floor consideration. The trade policy of the United States must benefit the entire country, not simply select interest groups. We must strive and enter into trade agreements that are not only free, but fair. Unfortunately, H.R. 3005, like its predecessor, fails to remedy the concerns associated with expedited trade agreements.

Mr. MATSUI. Mr. Speaker, I rise in strong opposition to this bill. And let me say right up front: I stand here before you today as a free trader.

Those of you who know me know that I believe in the principles of free trade and global commerce. I have fought to open and expand markets for US goods and services time and time again, right here in this chamber.

Those who know me know that I believe that the freedom to trade across borders, if handled responsibly, is a wonderful way to raise living standards, create jobs, and protect the environment around the world—particularly in those countries that need help the most.

But this vote is about much more than that. It's about the fact that the very nature of international trade has changed radically.

Trade is no longer primarily about tariffs and quotas. It's about changing domestic laws. The constitutional authority to make law is at the heart of our role as a Congress and of our sovereignty as a nation.

When international trade negotiators sit down to hammer out agreements, they are talking about harmonizing 'non-tariff barriers to trade' that may include everything from antitrust laws to food safety.

Now, I believe the President and the USTR should be able to negotiate trade deals as efficiently as possible. There's no questions about that.

But that does not mean that Congress must concede to the Executive Branch its constitutional authority over foreign commerce and domestic law without adequate assurances that Congress will be an active participant in the process.

Congress should be a partner, not a mere spectator or occasional consultant to the process. The Thomas bill does not ensure that.

Think about what may be bargained away at the negotiating table: our own domestic environmental protections . . . food safety laws . . . competition policies.

That's the air we breathe, the food our children eat, and the way Americans do business.

With all due respect to Robert Zoellick, I want GEORGE MILLER, JOHN CONYERS, and JOHN DINGELL in on those discussions.

Now, Chairman THOMAS says that he has fixed the problem of Congressional participation by adding a bit of technical language here and there.

Of course, these changes do nothing to affect the labor and environmental provisions in this bill, which we all know are sorely lacking.

But let me be clear: these amendments are pure window-dressing.

Beneath the jargon, all he's done is give himself, as Chairman of the Ways and Means Committee, the ability to bottle up any attempt to revoke fast track authority, no matter how far the negotiators have strayed from Congressional trade objectives.

With all due respect to the Chairman, I cannot cede my constitutional responsibility to his stewardship.

Mr. Speaker, the nature of trade has changed, and fast track authority must change with it. I ardently believe in the principles of free trade. But I will not put my constitutional authority over domestic law and my responsibility to my own constituents on a fast track to the executive branch.

I urge my colleagues to vote no on this legislation. Thank you.

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Mr. WELDON of Florida. Mr. Speaker, as I have conveyed to you, my concern is that as we pursue international trade agreements, we must enter those negotiations recognizing the special needs of our fruit and vegetable sector, and Florida citrus in particular. While many of our commodities enjoy significant federal subsidies, fruit and vegetable producers do not have these same subsidies. Florida's $9 billion citrus industry potentially faces significant competition from Brazil. Brazil enjoys a cost-of-production far below that of U.S. agricultural producer. Today's tariffs on Brazilian orange juice account for the wide difference in cost-of-production between the U.S. and Brazil. Also, Brazilian fruit can be treated with pesticides that are banned in the U.S. This raises issues of safety, double standards, and competitive advantages. Any further reduction in the tariff schedule for Brazilian orange juice under FTAA could cause significant harm to Florida's citrus industry.

Mr. Speaker, we had requested the inclusion of language in the bill specifically excluding export sensitive products such as perishable fruits and vegetables, and related products such as frozen orange juice. That specific language is not in your bill.

Mr. Speaker, it is my understanding that the amendments in section three dealing with trade sensitive commodities, would limit the President's proclamation authority so that tariff reductions could not be implemented without specific Congressional approval.

It is also my understanding that these special provisions provide a strong indication that these sensitive agriculture industries, such as citrus, should not be the subject of further tariff reductions in negotiations covered under this act?

Finally, it is my understanding that these provisions require that the Administration identify that the import sensitive agriculture products, such as citrus, be fully evaluated by the ITC prior to any tariff negotiations and that any probable adverse effects be the subject of remedial proposals by the Administration.

As this bill moves from the House to the other body and to conference, there will be additional opportunity to address the concerns of this industry. I am pleased that the Chairman has indicated he is willing to work with me and other members of the Florida Congressional delegation to address any additional concerns.

Mr. CROWLEY. Mr. Speaker, I rise today in strong opposition to the Trade Promotion Authority bill offered by Chairman THOMAS.

My problem here is not with the concept of giving the President trade promotion authority, my problem is with passing a TPA bill that fails to address basic labor and congressional oversight requirements.

The labor provisions in this bill are a sham.

This legislation calls only for the non-degradation of a potential trading partner's labor laws.

Under this bill, Malaysian companies could continue to pay a ten year old child, five cents for a day's work.

In this example, the Malaysian firm would only be in violation if it paid the same child four cents for a day's work.

The Thomas labor requirements run counter to common sense.

There is a reason that the International Labor Organization established the five core labor standards.

The rights of association and collective bargaining, and bans on child labor, compulsory labor and discrimination are essential components to all trade agreements.

We must insist that our trade partners respect and abide by these standards without exception.

The notion of Congressional oversight has fallen short in this bill, as well.

H.R. 3005 provides no effective mechanism for Congressional participation. It only includes an element of the 1988 law that was never implemented.

Congress must have the authority to oversee these agreements on a periodic basis, and have the ability to present resolutions of disapproval should the need arise.

The bottom line is that this bill is totally deficient on many levels.

The Ranking Member, Mr. RANGEL, had a substitute that would have met the requirements necessary to negotiate trade agreements in good faith.

Unfortunately, the Republicans would not allow the Democratic bill to see the light of day.

Let's pass a TPA bill that makes sense.

This bill certainly does not.

Therefore, I urge my colleagues to oppose this bill.

Mr. KLECZKA. Mr. Speaker, almost 11 weeks have passed since the Speaker indicated that the House would take up legislation to help those who were unemployed due to the September 11th attacks and the slowing economy. To date we have not completed action on proposals to extend unemployment compensation, to address health insurance for people who lost coverage through their former employer, or to provide health insurance coverage for those who did not have health benefits through their employer.

Today we are asked to consider another bill that would benefit large businesses at the expense of the American worker. The legislation before us would grant the President the ability to negotiate trade agreements with other countries and then send them to the Congress for it's up or down vote.

Congress should be part of careful and deliberate negotiations on all trade agreements. They should not be put on the fast-track. Such a take-it-or-leave-it approach strongly favors any agreement submitted by the Administration, regardless of its flaws or impact on our workers and the environment. A recent trade agreement between the United States and Jordan was not subject to fast-track procedures, but was approved by Congress nevertheless. This measure required labor and environmental issues to be part of the core negotiating objectives. If Congress has not been a part of constructing that agreement, those objectives would surely have been left out of the accord.

The most appalling aspect of this bill is the fact that it fails to address the continuing problem of varying labor and environmental standards throughout the world. The bill requires only that a country enforce its own laws—however bad they may be in terms of worker rights and working conditions. There is no real requirement that a country's law include any of the five core labor standards—bans on child labor, discrimination, slave labor and the rights to associate and to bargain collectively.

Therefore, this bill would allow countries that do not provide basic protections to children under 14 who work in factories, that allow the use of slave labor, or that deny workers the basic right to associate and bargain collectively, to continue to do so. It is nearly impossible for American companies and their employees to compete against foreign businesses that pay poverty wages.

Nor does the bill direct that concrete steps be taken to integrate existing or future multilateral environmental agreements with trade agreements. Instead, the bill says we do not care whether your companies pollute the water or poison the air. This bill says we do not care how safe your products are and it allows foreign investors in the U.S. to challenge our own right to enact environmental and other public interest laws within our borders.

Our trade agreements should not forsake the interests of U.S. workers and industries, for the option of foreign companies flooding our markets with cheap products, forcing American businesses to close there doors and send their workers to the unemployment line.

Trade agreements have far-reaching effects on the U.S. economy, workers and the environment and at a time when the economy is in a recession and America is waging a war overseas, the jobs of American workers should not be put at additional risk by this legislation.

This bill differs little from the fast track bill voted down by the House in 1998 and it should be voted down today as well.

Mr. BLUMENAUER. Mr. Speaker, One of my priorities in Congress is the support of trade policies that require environmental protections, support human rights and fair labor conditions while strengthening the economies of my community and of nations around the world.

Trade has tremendous potential for achieving these objectives, but only if our trade policy is carefully crafted. We must ensure that we are using our maximum leverage to achieve the above goals. We need to appreciate how the world is chaning—in regards to the positive transformative powers trade can have for societies around the world as well as the potential negative impact trade can have here at home. International trade provisions can now undermine other U.S. provisions of law ranging from immigration to anti-trust. One example is the provisions in NAFTA that appear to place foreign investors in a position superior to their American counterparts, potentially enabling them to evade our environmental protections.

I believe these problems are not insurmountable or even all that difficult to tackle. The provisions of HR 3019, authored by Ranking Member RANGEL, would establish core labor standards as the point of departure for any new free trade agreement in the Americas. In HR 3019 foreign investors would not be given greater rights than domestic investors, and the United States would be empowered to enforce multilateral environmental agreements where both parties have accepted their obligations.

With a determined expression of outreach and commitment on the part of the President and the Speaker of the House, we can and should have a trade bill that garners at least 250 votes, helping lift trade above today's fiercely ideological partisan contention. Instead, if this bill passes, it will win a narrow majority over bitter opposition from many people who are actually leaders for international trade. Bringing this legislation to the House floor in this form, under these conditions, borders on the irresponsible. There is no reason to play ''Russian roulette'' with our national trade policy in order to accentuate partisan differences. Securing votes with incremental concessions on items like citrus and steel, and backing away form agricultural reform is a poor way to pass legislation and is no way to form an enduring coalition in support of trade promotion. I have implored the President to defuse the situation. I fear it will come back to haunt him and his Administration and make progress in the trade arena needlessly difficult for years to come.

The decision to attempt a narrow partisan victory continues a troubling trend in the House of Representatives. Legislation dealing with terrorism, airline security, insurance protection and economic stimulus did not need to be partisan and indeed there were strong bipartisan bills available. The decision by the House Republican leadership to push for narrow partisan victories at the expense of sound bipartisan policy, with the acquiescence or in some cases the outright support of the Administration, is not just bad policy, it's the wrong thing to do, when the country desperately wants to be united solving our problems.

I sadly but resolutely vote against this legislation. I will continue to speak out in support of the importance of Trade Promotion Authority. I will work with people on both sides of the aisle and our talented Trade Representative Robert Zoellick to secure a true bipartisan solution to other trade related issues.

Ms. LEE. Mr. Speaker, I rise today to voice my strong opposition to H.R. 3005, the Thomas Fast Track bill.

I strongly support free trade, but it must be fair and not at the expense of American jobs, workers' rights, the environment, or our Constitution.

We cannot sacrifice jobs in the pursuit of imaginary profits, especially now with our economy stumbling.

We are losing jobs every day, while our trade deficits get larger and larger. And those deficits have expanded since NAFTA was passed.

The Economic Policy Institute reports that Americans have lost 3 million actual and potential jobs since NAFTA.

California alone has suffered over 300,000 jobs in trade-related losses.

We must stem this tide and signing over Congress' trade authority is not the way to do that.

Nor should we sacrifice our environment or the public health.

Under the terms of Chapter 11 of NAFTA, California is currently being sued by a Canadian corporation because our state's efforts to phase out MTBE from our gasoline and eliminate that potential carcinogen from our water supply have cut into their profits.

Fast track would open up our environmental laws to foreign lawsuits.

It would undermine efforts to let consumers know if they are eating genetically modified foods.

It would threaten international environmental protections.

Finally, fast track undercuts the authority of this very Congress to protect our constituents.

The Constitution specifically grants Congress ''the power to regulate Commerce with foreign Nations.''

We should not vote to give that power away.

I urge you to oppose this bill. We don't have to jump on to a fast track that will lead to a train wreck.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his very strong support for H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001. This Member would like to thank the distinguished Chairman of the House Ways and Means Committee from California (Mr. THOMAS) for both introducing this legislation and for his efforts in moving this legislation forward to today's House Floor debate. Additional appreciation is expressed to the distinguished Chairman of the House Rules Committee from California (Mr. DREIER) for his efforts in expediting the consideration of this legislation.

Under the Bipartisan Trade Promotion Authority Act of 2001, Congress would agree to vote ''yeas'' or ''no'' on any trade agreement in its entirety, without amendments. This Member in the past has always supported Trade Promotion Authority (TPA), or ''Fast-Track Authority'' as it was previously called, because

this Member is fully convinced it is required for the President, acting through the United States Trade Representative, to conclude trade agreements with foreign nations. Certainly, TPA is necessary to give our trading partners confidence that the agreements which the U.S. negotiates will not be changed by Congress. Without the enactment of TPA, the United States will continue to fall further behind in expanding its export base and that will cost America thousands of potential jobs. Granting TPA to the President is absolutely essential for America to reach towards its export potential.

TPA will enhance Nebraska's agricultural exports. According to estimates from the U.S. Department of Agriculture, Nebraska ranked fourth among all states with agricultural exports of $3.1 billion in 2000. These exports represented about 35 percent of the state's total farm income of $8.9 billion in 2000. In addition to increasing farm prices and income, agricultural exports support about 44,800 jobs both on and off the farm. The top three agricultural exports in 2000 were live animals and red meats ($1 billion), feed grains and products ($769 million) and soybeans and products ($454 million). However, Nebraska agricultural exports still encounter high tariff and a whole range of significant nontariff barriers worldwide.

At the recent World Trade Organization (WTO) ministerial in Doha, Qatar, trade ministers representing over 140 countries agreed to a Declaration which launched a comprehensive multilateral trade negotiation that covered a variety of areas including agriculture. The trade objectives in this Declaration called for a reduction of foreign agriculture export subsidies, as well as improvements in agriculture market access. In order to help meet these trade negotiation objectives, TPA would give the President through the United States Trade Representative the authority to conclude trade agreements which are in the best interest of American farmers and ranchers.

This legislation is very important for Nebraska because our states economy is very export-dependent. According to the U.S. Department of Commerce International Trade Administration, Nebraska has export sales of $1,835 for every state resident. Moreover, 1,367 companies, including 998 small and medium-sized businesses with under 500 employees, exported from Nebraska in 1998. Therefore, TPA is critical to help remove existing trade barriers to exports of Nebraska goods and services.

To illustrate the urgency for TPA, it must be noted that the U.S. is only party to free trade agreements with Mexico and Canada through NAFTA and with Israel and Jordan. However, Europe currently has entered 27 free trade agreements and it is currently negotiating 15 more such agreements. In addition, there are currently over 130 preferential trade agreements in the world today. Without TPA, many American exporters will continue to lose important sales to countries which have implemented preferential trade agreements. For example, many American exporters are currently losing export sales to Chile because Canadian exporters face lower tariffs there under a Canada-Chile trade agreement.

This Member would like to focus on the following five subjects are they relate to the Bipartisan Trade Promotion Authority Act of 2001: financial services; labor and the environment; congressional consultation; the constitutionality of TPA; and the foreign policy and national security implications of TPA.

First, as the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member has focused on the importance of financial services trade, which includes banking, insurance, and securities. This Subcommittee was told in a June 2001 hearing that U.S. trade in financial services equaled $20.5 billion in 2000. This is a 26.7 percent increase from the U.S.'s 1999 financial services trade data. Unlike the current overall U.S. trade deficit, U.S. financial services trade had a positive balance of $8.8 billion in 2000.

The numbers for U.S. financial services trade have the potential to significantly increase if TPA is enacted into law. The U.S. is the preeminent world leader in financial services. TPA would further empower the United States Trade Representative to negotiate with foreign nations to open these insurance, banking, and securities markets and to expand access to these diverse financial service products.

Certainly, TPA would particularly benefit U.S. financial services trade as it relates to the Free Trade Area of the Americas since many of the involved countries are emerging markets where there will be an increasing demand for sophisticated financial services. Furthermore, TPA would also benefit financial services trade as it is part of the larger framework of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). In 2000, GATS members began a new round of service negotiations.

Second, the Bipartisan Trade Promotion Authority Act of 2001 includes important labor and environmental provisions. For example, among other provisions, TPA adds a principal U.S. negotiating objective to ensure that a party to a trade agreement does not fail to effectively enforce its own labor or environmental laws. This type of provision was also included in the U.S.-Jordan Free Trade Agreement which was signed into law on September 28, 2001 (Public Law No. 107–43).

Third, it is important to note that this legislation has strong congressional consultation provisions for before, during, and after the negotiations of trade agreements. For example, the President is required, before initiating negotiations, to provide written notice and to consult with the relevant House and Senate committees of jurisdiction and a Congressional Oversight Group at least 90 calendar days prior to entering into trade negotiations. This Congressional Oversight Group, who would be accredited as official advisers to the United States Trade Representative, would provide advice regarding formulation of specific objectives, negotiating strategies and positions, and development of the trade agreement. In addition, TPA would not apply to an agreement if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to consult Congress.

Fourth, enactment of TPA is required to secure a constitutionally sound basis for American trade policy in the globalized economic environment focusing our country today. Under Article II of the U.S. Constitution, the President is given the authority to negotiate treaties and international agreements. However, under Article I of the U.S. Constitution, Congress is given the power to regulate foreign commerce. In this TPA legislation, any trade agreement still has to be approved by Congress by a ''yes'' or ''no'' vote, without any amendments, by both the House and the Senate before it can be signed into law. As a result, TPA does not impinge upon the exclusive power of Congress to regulate foreign commerce. Furthermore, the U.S. Constitution does not ban the adoption of a Senate or House rule which prohibits amendments from being offered to a bill during Floor consideration. In fact, the House considers bills almost every legislative week which cannot be amended on the Suspension Calendar.

Fifth, extending TPA to the President has critical national security implications. Indeed, the terrorist attacks of September 11th highlight the extend to which American security is placed at risk when the U.S. fails to remain engaged in areas around the world. Many countries of Central America, South America, Asia, and Africa have fragile democratic institutions and market economies. They remain in peril of falling into the hands of unfriendly regimes unless the U.S. helps to develop the kind of economic stability underpinning democratic societies that enhanced trading opportunities can provide.

In conclusion, for the above stated reasons and many others, this Member strongly supports TPA because it is absolutely critically important to the health and the future growth of the U.S. economy. Therefore, this Member very strongly urges his colleagues to support H.R. 3005. This is probably the most important vote of the 107th Congress.

Mr. HYDE. Mr. Speaker, I rise in strong support of the Bipartisan Trade Promotion Authority Act of 2001, H.R. 3005, a measure granting Trade Promotion Authority, TPA, to President Bush, an authority which lapsed in 1994. One of the most important votes we will be asked to cast in this Congress, the enactment of this measure is essential to our national interest and our long-term economic growth and prosperity.

Without this authority, U.S. negotiators will continue to find themselves outside looking in on trade competitors concluding one trade agreement after another that protects their interests and ignores ours. There are over 130 such preferential agreements in place today and the U.S. is a party to only three.

Our trade competitors have clearly taken advantage of our inability to negotiate without this authority. Our NAFTA trade partners, Canada and Mexico, have, for example, signed preferential trade agreements with other countries of South and Central America ensuring that our exporters are at a competitive disadvantage.

Our hopes for this hemisphere rest upon the economic advancement of all. And during the past decade there were many positive signs as almost every country in the region embraced the free market and implemented a far-reaching series of economic reforms, thereby laying the foundation for sustained growth. We are only at the beginning of this process, however.

Too many in this rich hemisphere remain poor; too many countries remain underdeveloped; and too many workers are denied access to increased economic opportunities. There are many obstacles that need to be overcome in this effort, but one easy way to

expand economic opportunity for every country in this hemisphere is to remove its outdated and self-limiting barriers to trade. This is what the Free Trade Area of Americas (FTAA) represents: the recognition that protectionism is a dead end street and that the economic interests of each country are best advanced through cooperation and an openness to the world.

President Bush has rightly made the FTAA the centerpiece of U.S. policy towards the hemisphere, but we cannot succeed in this effort without trade promotion authority.

We now find ourselves in the ironic situation that the greatest advocates of this agreement are the countries of Central and South America which formerly blockaded themselves virtually every U.S. proposal for expanded cooperation. Now it is they who are knocking on our door, preaching the benefits of cooperation.

A ''no'' voted today will only ties the hands of our trade negotiators who are trying to lower tariff and non-tariff barriers, to increase economic opportunity here and abroad, and to jump-start the global economy.

NAFTA and the most recent global trade agreement (the ''Uruguay Round'') have saved the average American family $1,300 to $2,000 each year from the combined effect of income increases and lower prices for imports. These two agreements are estimated to have increased overall U.S. national income by approximately $50 billion a year.

Many Members, on the Republican as well as Democratic side of the aisle, are concerned, however, that granting the President ''a blank check'' to negotiate trade agreements could compromise our values and set back efforts to reform the World Trade Organization.

But the text of the proposed trade legislation clearly spells out our commitment to democracy, improved trade and environmental policies, respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization.

It also includes our commitment to greater openness and transparency inside the global rule-making body, the World Trade Organization and to much greater public access to its dispute settlement proceedings.

For those members who remain unconvinced that the President would put his TPA authority to good use, I emphasize that Congress retains the right to approve or disapprove any trade agreement negotiated under the TPA authority. Any Member can vote down any future trade agreement if he or she feels that it doesn't promote our economic security.

Our failure to grant the President this vitally needed authority will lead to the continuing loss of American influence in global trade debates and a continuation of the global economic recession. The U.S. has long been the engine of the global economy and without this key trade authority we will be hard pressed to lead Europe and Asia back onto the growth path of the 1990s.

At this critical point in our global anti-terrorism battle, it is also essential, in my view, that we enable the President to build stable trade relationships with our key coalition partners.

We can—and should—esnure that the views of our committee are fully taken into account in the drafting of any future trade negotiations, and I will help to ensure that this takes place.

Without TPA, we won't have the tools needed to jump start the global economy to help lift us out of economic recession.

With TPA, they can finish the task of building a Free Trade Area of the Americas and negotiating a new trade round. With TPA, our President can once again exercise leadership to foster open markets, democracy and economic development.

Security and trade issues are increasingly linked. Bringing China, and eventually Russia, into the world trading system will help to ensure that these and other countries will strengthen the rule of law and promote more open economic systems.

NATO's role in the world is only as strong as the economies of its members and without TPA and a new round of trade negotiations the global recession is likely to be that much longer and deeper.

Support the President and pass H.R. 3005.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to support H.R. 3005, the Trade Promotion Authority Act of 2001.

I believe passage of this important legislation is crucial to America's economic interest, especially in light of the recession. H.R. 3005 is significant because it seeks to renew the President's fast track or trade promotion authority (TPA) to negotiate trade agreements with other nations. This legislation would ensure that the United States can effectively negotiate away foreign tariff barriers as well as non-tariff barriers that now exclude U.S. products. It gives the U.S. credibility to negotiate tough trade deals while preserving Congress' right to approve or disapprove them. More importantly, if the U.S. fails to be a leading participant in future negotiations on multilateral, bilateral and sectoral agreements, we will see a negative effect on our competitive ability to sell our goods in overseas markets. Our global economy demands that the President have TPA to open up foreign markets to United States products and ensure continued economic prosperity for American consumers and workers. For this reason, I fully support giving the President this important tool that every President, except for President Bill Clinton, has had since 1974.

TPA allows the President to enter into trade agreements reducing, eliminating, or otherwise affecting U.S. tariff and non-tariff barriers. It essentially commits the Congress to vote on those agreements (without amendments or revisions) within a limited period of time. Under H.R. 3005, the President must also consult and coordinate with Congress throughout the negotiating process. In any event, if Congress does not like the end result, members can simply vote against the total package.

Mr. Speaker, 95 percent of the world's consumers living outside of the United States. Let me repeat: 95 percent of the world's consumers live outside the U.S. That means quite simply, that the continued growth of the U.S. economy depends upon our success in eliminating trade barriers around the globe. Since 1993, U.S. exports have contributed to nearly one-third of the nation's economic growth and have increased three times faster than overall income. Moreover, between 1986 and 1994, jobs supported by exports rose 63 percent more than four times faster than overall private industry job growth.

Free trade is especially important to the Commonwealth of Virginia. In 1996, Virginia exported goods worth $10.9 billion, 4.8 percent higher than in 1995. As the 16th largest exporter among the 50 states, Virginia industries have benefitted tremendously from international trade, particularly in the high-tech, industrial machinery, transportation equipment, and chemical and fabricated metal products exporting sectors.

U.S. technology companies are the single largest merchandise exporters in the United States, accounting for 20 percent of all merchandise exports. Exports from the U.S. have more than doubled during the last decade. In particular, high-tech services such as computer, data processing and other information services are booming. While these exports are vital, imports are also important. They help keep inflation in check, give consumers greater choice, create jobs, and allow U.S. companies to use the best technology available so they can increase their productivity and competitiveness.

Since TPA lapsed in 1993, the U.S. has been forced to sit on the sidelines while our foreign competitors aggressively pursued their own economic interests through trade agreements. For example: both Canada and Mexico now have free trade agreements with Chile; the Latin American Southern Cone Common Market (''Mercosur''), which consists of Brazil, Argentina, Paraguay, and Uruguay, has agreements with Chile and Bolivia and is negotiating trade arrangements with other countries in Latin America; Japan and the European Union are working toward trade arrangements with countries in Latin America and Asia; and Members of the Association of Southeast Asian Nations (ASEAN) are implementing a free trade area.

The President must have the authority to begin hammering out fair and balanced trade agreements that will clinch America's leadership role in the world market and improve the standard of living for American families. H.R. 3005 is a reasonable compromise that will enable the United States to stimulate economic growth, exercise leadership, and provide new opportunities for American companies, workers and their families. The U.S. is not keeping pace with our foreign competitors in opening up markets. We are party to only two of the more than 130 free trade agreements, and 43 of the 1,800 bilateral investment agreements in force today. The impact of U.S. inaction cannot be overstated: we face discriminatory tariffs; our service sectors are often at a competitive disadvantage against their foreign rivals; product standards are established that favor our foreign competitors; and foreign companies are often granted more favorable investment terms.

By granting the President this authority we will guarantee that the U.S. remains both the political and economic world leader. Right now, while the U.S. stands on the sidelines, other nations have gotten the jump on negotiating trade agreements that benefit their domestic interest.

U.S. exporters lose out on investment opportunities while the Congress debates whether we as a nation should be engaged in serious world trade. The time for debate is over; the time for action is now.

Without the authority provided by this legislation, U.S. negotiators will not be able to sit across the table from our largest trading partners and reach agreements that lower tariffs, increase transparency and lessen onerous regulations in prospective markets. Instead, it

will be our trading partners who negotiate free trade pacts among themselves, excluding U.S. workers and businesses from the benefits of open markets. We cannot afford to sit idly by while other nations seize the mantle of leadership on trade matters from the United States.

The September 11th attacks on America and the ensuing sluggish economy make it more important than ever for Congress to give the President unfettered authority to tear down barriers to trade and investment, expand markets for U.S. farmers and businesses, and create higher-skilled, higher-paying jobs for American workers. Because TPA is crucial to these objectives, I urge all of my colleagues to vote in favor of H.R. 3005

Mr. CANTOR. Mr. Speaker, I rise today in support of H.R. 3005, the Bipartisan Trade Promotion Authority and encourage its overwhelming passage.

Mr. Speaker, my colleagues on the other side of the aisle claim that trade promotion authority will result in a diminished quality of life while creating low paying jobs in countries around the world.

This could not be further from the truth and our trade with Mexico is the perfect example to illustrate this point.

Since NAFTA, wages in Mexico increased at an average annual rate of 10.3 percent from 1995–2000.

The standard of living in Mexico between 1993–1999 increased at an average annual rate of 8 percent.

Approximately 1.7 million jobs have been created in Mexico since mid-1995, according to Mexican government figures.

Moreover unemployment in Mexico fell from nearly 6.3 percent in 1995 to just over 2.5 percent in 1999.

In the year 2000, U.S. companies have had direct investment worth $35 million in Mexico, up from $17 billion in 1994.

Not only is NAFTA raising the standard of living and creating jobs in Mexico, but it is doing so in the United States as well.

NAFTA allowed U.S. exports to Canada and Mexico to rise by $149 billion, leading to new sales that helped create nearly three million jobs.

Export-related jobs pay on average 13–16 percent more than comparable domestic jobs.

United States trade interests will continue to suffer if we do not grant the President trade promotion authority.

In an editorial that appeared in the Wall Street Journal, European Union commissioner for trade, Pascal Lamy, was quoted as saying that, ''If the United States does not get this mandate quickly, then no one will negotiate.''

Brazilian Ambassador Rubens Barbosa has warned that a TPA failure would all but sink talks for a new 34-country Free Trade Area of the Americas.

In Chile, United States exports are being displaced as Chilean buyers switch away from United States made products and increasingly buy goods from suppliers in countries with which Chile has a free trade agreement.

The United States has lost 6 percentage points of the Chilean import market since 1997, resulting in the loss of more than $800 million annually in exports to Chile.

This represents a loss of more than 10,000 American Jobs. The point is clear.

Increased international trade and investments will create opportunities for American companies and American workers, lifting the world's standard of living and creating even more demand for American goods and services.

I urge passage of the bill.

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

Pursuant to House Resolution 306, 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. RANGEL

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

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

Mr. RANGEL. I am, Mr. Speaker.

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

The Clerk read as follows:

Mr. RANGEL moves to recommit the bill H.R. 3005 to the Committee on Ways and Means with instructions that the Committee report back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Trade Negotiating Authority Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is the following:

Sec. 1. Short title; table of contents.
Sec. 2. Negotiating objectives.
Sec. 3. Congressional trade advisers.
Sec. 4. Trade agreements authority.
Sec. 5. Commencement of negotiations.
Sec. 6. Congressional participation during negotiations.
Sec. 7. Implementation of trade agreements.
Sec. 8. Treatment of certain trade agreements.
Sec. 9. Additional report and studies.
Sec. 10. Additional implementation and enforcement requirements.
Sec. 11. Technical and conforming amendments.
Sec. 12. Definitions.

SEC. 2. NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 4 are the following:

(1) To obtain clear and specific commitments from trading partners of the United States to fulfill existing international trade obligations according to existing schedules.

(2) To obtain more open, equitable, and reciprocal market access for United States agricultural products, manufactured and other nonagricultural products, and services.

(3) To obtain the reduction or elimination of barriers to trade, including barriers that result from failure of governments to publish laws, rules, policies, practices, and administrative and judicial decisions.

(4) To ensure effective implementation of trade commitments and obligations by strengthening the effective operation of the rule of law by trading partners of the United States.

(5) To oppose any attempts to weaken in any respect the trade remedy laws of the United States.

(6) To increase public access to international, regional, and bilateral trade organizations in which the United States is a member by developing such organizations and their underlying agreements in ways that make the resources of such organizations more accessible to, and their decision-making processes more open to participation by, workers, farmers, businesses, and nongovernmental organizations.

(7) To ensure that the dispute settlement mechanisms in multilateral, regional, and bilateral agreements lead to prompt and full compliance.

(8) To ensure that the benefits of trade extend broadly and fully to all segments of society.

(9) To pursue market access initiatives that benefit the world's least-developed countries.

(10) To ensure that trade rules take into account the special needs of least-developed countries.

(11) To promote enforcement of internationally recognized core labor standards by trading partners of the United States.

(12) To promote the ongoing improvement of environmental protections.

(13) To promote the compatibility of trade rules with national environmental, health, and safety standards and with multilateral environmental agreements.

(14) To identify and pursue those areas of trade liberalization, such as trade in environmental technologies, that also promote protection of the environment.

(15) To ensure that existing and new rules of the WTO and of regional and bilateral trade agreements support sustainable development, protection of endangered species, and reduction of air and water pollution.

(16) To ensure that existing and new rules of the WTO and of regional and bilateral agreements are written, interpreted, and applied in such a way as to facilitate the growth of electronic commerce.

(b) PRINCIPAL NEGOTIATING OBJECTIVES UNDER THE WTO.—The principal negotiating objectives of the United States under the auspices of the WTO are the following:

(1) RECIPROCAL TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets equal to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by doing the following:

(A) Reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports, giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries and providing reasonable adjustment periods for import sensitive products of the United States, in close consultation with the Congress.

(B) Eliminating disparities between applied and bound tariffs by reducing bound tariff levels.

(C) Enhancing the transparency of tariff regimes.

(D) Tightening disciplines governing the administration of tariff rate quotas.

(E) Eliminating export subsidies.

(F) Eliminating or reducing trade distorting domestic subsidies.

(G) When negotiating reduction or elimination of export subsidies or trade distorting domestic subsidies with countries that maintain higher levels of such subsidies than the United States, obtaining reductions from other countries to United States subsidy levels before agreeing to reduce or eliminate United States subsidies.

(H) Preserving United States market development programs, including agriculture export credit programs that allow the United States to compete with other foreign export promotion efforts.

(I) Maintaining bona fide food aid programs.

(J) Allowing the preservation of programs that support family farms and rural communities but do not distort trade.

(K) Eliminating state trading enterprises, or, at a minimum, adopting rigorous disciplines that ensure transparency in the operations of such enterprises, including price transparency, competition, and the end of discriminatory policies and practices, including policies and practices supporting cross-subsidization, price discrimination, and price undercutting in export markets.

(L) Eliminating practices that adversely affect trade in perishable or seasonal products, while improving import relief mechanisms to recognize the unique characteristics of perishable and seasonal agriculture. Before commencing negotiations with respect to agriculture, the Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of perishable and seasonal food products to be employed in the negotiations in order to develop an international consensus on the treatment of such products in antidumping, countervailing duty, and safeguard actions and in any other relevant area.

(M) Taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements.

(N) Taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements.

(O) Taking into account the impact that agreements covering agriculture to which the United States is a party, including NAFTA, have had on the agricultural sector in the United States.

(P) Ensuring that countries that accede to the WTO have made meaningful market liberalization commitments in agriculture.

(Q) Treating the negotiation of all issues as a single undertaking, with implementation of early agreements in particular sectors contingent on an acceptable final package of agreements on all issues.

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States with respect to trade in services is to further reduce or eliminate barriers to, or other distortions of, international trade in services by doing the following:

(A) Pursuing agreement by WTO members to extend their commitments under the General Agreement on Trade in Services (in this section also referred to as ''GATS'') to—

(i) achieve maximum liberalization of market access in all modes of supply, including by removing restrictions on the legal form of an investment or on the right to own all or a majority share of a service supplier, subject to national security exceptions;

(ii) remove regulatory and other barriers that deny national treatment, or unreasonably restrict the establishment or operations of service suppliers in foreign markets;

(iii) reduce or eliminate any adverse effects of existing government measures on trade in services;

(iv) eliminate additional barriers to trade in services, including restrictions on access to services distribution networks and information systems, unreasonable or discriminatory licensing requirements, the administration of cartels or toleration of anticompetitive activity, unreasonable delegation of regulatory powers to private entities, and similar government acts, measures, or policies affecting the sale, offering for sale, purchase, distribution, or use of services that have the effect of restricting access of services and service suppliers to a foreign market; and

(v) grandfather existing concessions and liberalization commitments.

(B) Strengthening requirements under GATS to ensure that regulation of services and service suppliers in all respects, including by rulemaking, license-granting, standards-setting, and through judicial, administrative, and arbitral proceedings, is conducted in a transparent, reasonable, objective, and impartial manner and is otherwise consistent with principles of due process.

(C) Continuing to oppose strongly cultural exceptions to obligations under GATS, especially relating to audiovisual services and service providers.

(D) Preventing discrimination against a like service when delivered through electronic means.

(E) Pursuing full market access and national treatment commitments for services sectors essential to supporting electronic commerce.

(F) Broadening and deepening commitments of other countries relating to basic and value added telecommunications, including by—

(i) strengthening obligations and the implementation of obligations to ensure competitive, nondiscriminatory access to public telecommunication networks and services for Internet service providers and other value-added service providers; and

(ii) preventing anticompetitive behavior by major suppliers, including service suppliers that are either government owned or controlled or recently government owned or controlled.

(G) Broadening and deepening commitments of other countries relating to financial services.

(3) TRADE IN MANUFACTURED AND NONAGRICULTURAL GOODS.—The principal negotiating objectives of the United States with respect to trade in manufactured and nonagricultural goods are the following:

(A) To eliminate disparities between applied and bound tariffs by reducing bound tariff levels.

(B) To negotiate an agreement that includes reciprocal commitments to eliminate duties in sectors in which tariffs are currently approaching zero.

(C) To eliminate tariff and nontariff disparities remaining from previous rounds of multilateral trade negotiations that have put United States exports at a competitive disadvantage in world markets, especially tariff and nontariff barriers in foreign countries in those sectors where the United States imposes no significant barriers to imports and where foreign tariff and nontariff barriers are substantial.

(D) To obtain the reduction or elimination of tariffs on value-added products that provide a disproportionate level of protection compared to that provided to raw materials.

(E) To eliminate additional nontariff barriers to trade, including—

(i) anticompetitive restrictions on access to product distribution networks and information systems;

(ii) unreasonable or discriminatory inspection processes;

(iii) the administration of cartels, or the promotion, enabling, or toleration of anticompetitive activity;

(iv) unreasonable delegation of regulatory powers to private entities;

(v) unreasonable or discriminatory licensing requirements; and

(vi) similar government acts, measures, or policies affecting the sale, offering for sale, purchase, transportation, distribution, or use of goods that have the effect of restricting access of goods to a foreign market.

(4) TRADE IN CIVIL AIRCRAFT.—The principal negotiating objectives of the United States with respect to civil aircraft are those contained section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3555(c)).

(5) RULES OF ORIGIN.—The principal negotiating objective of the United States with respect to rules of origin is to conclude the work program on rules of origin described in Article 9 of the Agreement on Rules of Origin.

(6) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are the following:

(A) To improve enforcement of decisions of dispute settlement panels to ensure prompt compliance by foreign governments with their obligations under the WTO.

(B) To strengthen rules that promote cooperation by the governments of WTO members in producing evidence in connection with dispute settlement proceedings, including copies of laws, regulations, and other measures that are the subject of or are directly relevant to the dispute, other than evidence that is classified on the basis of national security, and evidence that is business confidential.

(C) To pursue rules for the management of translation-related issues.

(D) To require that all submissions by governments to dispute settlement panels and the Appellate Body be made available to the public upon submission, providing appropriate exceptions for only that information included in a submission that is classified on the basis of national security or that is business confidential.

(E) To require that meetings of dispute settlement panels and the Appellate Body with parties to a dispute are open to other WTO members and the public and provide for in camera treatment of only those portions of a proceeding dealing with evidence that is classified on the basis of national security or that is business confidential.

(F) To require that transcripts of proceedings of dispute settlement panels and the Appellate Body be made available to the public promptly, providing appropriate exceptions for only that information included in the transcripts that is classified on the basis of national security or that is business confidential.

(G) To establish rules allowing for the submission of amicus curiae briefs to dispute settlement panels and the Appellate Body, and to require that such briefs be made available to the public, providing appropriate exceptions for only that information included in the briefs which is classified on the basis of national security or that is business confidential.

(H) To strengthen rules protecting against conflicts of interest by members of dispute settlement panels and the Appellate Body, and promoting the selection of such members with the skills and time necessary to decide increasingly complex cases.

(I) To pursue the establishment of formal procedures under which dispute settlement panels, the Appellate Body, and the Dispute Settlement Body seek advice from other fora of competent jurisdiction, such as the International Court of Justice, the ILO, representative bodies established under international environmental agreements, and scientific experts.

(J) To ensure application of the requirement that dispute settlement panels and the Appellate Body apply the standard of review

established in Article 17.6 of the Antidumping Agreement and clarify that this standard of review should apply to cases under the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards.

(7) SANITARY AND PHYTOSANITARY MEASURES.—The principal negotiating objectives of the United States with respect to sanitary and phytosanitary measures are the following:

(A) To oppose reopening of the Agreement on the Application of Sanitary and Phytosanitary Measures.

(B) To affirm the compatibility of trade rules with measures to protect human health, animal health, and the phytosanitary situation of each WTO member by doing the following:

(i) Reaffirming that a decision of a WTO member not to adopt an international standard for the basis of a sanitary or phytosanitary measure does not in itself create a presumption of inconsistency with the Agreement on the Application of Sanitary and Phytosanitary Measures, and that the initial burden of proof rests with the complaining party, as set forth in the determination of the Appellate Body in EC Measures Concerning Meat and Meat Products (Hormones), AB–1997–4, WT/DS26/AB/R, January 16, 1998.

(ii) Reaffirming that WTO members may take provisional sanitary or phytosanitary measures where the relevant scientific evidence is insufficient, so long as such measures are based on available pertinent information, and members taking such provisional measures seek to obtain the additional information necessary to complete a risk assessment within a reasonable period of time. For purposes of this clause, a reasonable period of time includes sufficient time to evaluate the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins, or disease-causing organisms in food, beverages, or feedstuffs.

(8) TECHNICAL BARRIERS TO TRADE.—The principal negotiating objectives of the United States with respect to technical barriers to trade are the following:

(A) To oppose reopening of the Agreement on Technical Barriers to Trade.

(B) Recognizing the legitimate role of labeling that provides relevant information to consumers, to ensure that labeling regulations and standards do not have the effect of creating an unnecessary obstacle to trade or are used as a disguised barrier to trade by increasing transparency in the preparation, adoption, and application of labeling regulations and standards.

(9) TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS.—The principal negotiating objectives of the United States with respect to trade-related aspects of intellectual property rights are the following:

(A) To oppose extension of the date by which WTO members that are developing countries must implement their obligations under the Agreement on Trade Related Aspects of Intellectual Property Rights (in this section also referred to as the ''TRIPs Agreement''), pursuant to paragraph 2 of Article 65 of that agreement.

(B) To oppose extension of the moratorium on the application of subparagraphs 1(b) and 1(c) of Article XXIII of the GATT 1994 to the settlement of disputes under the TRIPs Agreement, pursuant to paragraph 2 of Article 64 of the TRIPs Agreement.

(C) To oppose any weakening of existing obligations of WTO members under the TRIPs Agreement.

(D) To ensure that standards of protection and enforcement keep pace with technological developments, including ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.

(E) To prevent misuse of reference pricing classification systems by developed countries as a way to discriminate against innovative pharmaceutical products and innovative medical devices, without challenging legitimate reference pricing systems not used as a disguised restriction on trade.

(F)(i) To clarify that under Article 31 of the TRIPs Agreement WTO members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including by taking actions that have the effect of increasing access to essential medicines and medical technologies.

(ii) In situations involving infectious diseases, to encourage WTO members that take actions described under clause (i) to also implement policies—

(I) to address the underlying causes necessitating the actions, including, in the case of infectious diseases, encouraging practices that will prevent further transmission and infection;

(II) to take steps to stimulate the development of the infrastructure necessary to deliver adequate health care services, including the essential medicines and medical technologies at issue;

(III) to ensure the safety and efficacy of the essential medicines and medical technologies involved; and

(IV) to make reasonable efforts to address the problems of supply of the essential medicines and medical technologies involved (other than by compulsory licensing), consistent with the obligation set forth in Article 31 of the TRIPs Agreement.

(iii) To encourage members of the Organization for Economic Cooperation and Development and the private sectors in their countries to work with the United Nations, the World Health Organization, and other relevant international organizations, including humanitarian relief organizations, to assist least-developed and developing countries, in all possible ways, in increasing access to essential medicines and medical technologies including through donations, sales at cost, funding of global medicines trust funds, and developing and implementing prevention efforts and health care infrastructure projects.

(10) TRANSPARENCY.—The principal negotiating objectives of the United States with respect to transparency are the following:

(A) To pursue the negotiation of an agreement—

(i) requiring that government laws, rules, and administrative and judicial decisions be published and made available to the public so that governments, businesses, and the public have adequate notice of them;

(ii) requiring adequate notice before new rules are promulgated or existing rules amended;

(iii) encouraging governments to open rulemaking to public comment;

(iv) establishing that any administrative proceeding conducted by the government of any WTO member relating to any of the WTO Agreements and applied to the persons, goods, or services of any other WTO member shall be conducted in a manner that—

(I) gives persons of any other WTO member affected by the proceeding reasonable notice, in accordance with domestic procedures, of when the proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

(II) gives such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(III) is in accordance with domestic law; and

(v) requiring each WTO member—

(I) to establish or maintain judicial, quasi-judicial, or administrative tribunals (impartial and independent of the office or authority entrusted with administrative enforcement) or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by any of the WTO Agreements;

(II) to ensure that, in such tribunals or procedures, parties to the proceeding are afforded a reasonable opportunity to support or defend their respective positions; and

(III) to ensure that such tribunals or procedures issue decisions based on the evidence and submissions of record or, where required by domestic law, the record compiled by the office or authority entrusted with administrative enforcement.

(B) To pursue a commitment by all WTO members to improve the public's understanding of and access to the WTO and its related agreements by—

(i) encouraging the Secretariat of the WTO to enhance the WTO website by providing improved access to a wider array of WTO documents and information on the trade regimes of, and other relevant information on, WTO members;

(ii) promoting public access to council and committee meetings by ensuring that agendas and meeting minutes continue to be made available to the public;

(iii) ensuring that WTO documents that are most informative of WTO activities are circulated on an unrestricted basis or, if classified, are made available to the public more quickly;

(iv) seeking the institution of regular meetings between WTO officials and representatives of nongovernmental organizations, businesses and business groups, labor unions, consumer groups, and other representatives of civil society; and

(v) supporting the creation of a committee within the WTO to oversee implementation of the agreement reached under this paragraph.

(11) GOVERNMENT PROCUREMENT.—The principal negotiating objectives of the United States with respect to government procurement are the following:

(A) To seek to expand the membership of the Agreement on Government Procurement.

(B) To seek conclusion of a WTO agreement on transparency in government procurement.

(C) To promote global use of electronic publication of procurement information, including notices of procurement opportunities.

(12) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are the following:

(A) To preserve the ability of the United States to enforce vigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and not enter into agreements that lessen in any respect the effectiveness of domestic and international disciplines—

(i) on unfair trade, especially dumping and subsidies, or

(ii) that address import increases or surges, such as under the safeguard remedy,

in order to ensure that United States workers, farmers and agricultural producers, and

firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.

(B) To eliminate the underlying causes of unfair trade practices and import surges, including closed markets, subsidization, government practices promoting, enabling, or tolerating anticompetitive practices, and other forms of government intervention that generate or sustain excess, uneconomic capacity.

(13) TRADE AND LABOR MARKET STANDARDS.—The principal negotiating objectives of the United States with respect to trade and labor market standards are the following:

(A) To achieve a framework of enforceable multilateral rules as soon as practicable that leads to the adoption and enforcement of core, internationally recognized labor standards, including in the WTO and, as appropriate, other international organizations, including the ILO.

(B) To update Article XX of the GATT 1994, and Article XIV of the GATS in relation to core internationally recognized worker rights, including in regard to actions of WTO members taken consistent with and in furtherance of recommendations made by the ILO under Article 33 of the Constitution of the ILO.

(C) To establish promptly a working group on trade and labor issues—

(i) to explore the linkage between international trade and investment and internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), taking into account differences in the level of development among countries;

(ii) to examine the effects on international trade and investment of the systematic denial of those worker rights;

(iii) to consider ways to address such effects; and

(iv) to develop methods to coordinate the work program of the working group with the ILO.

(D) To provide for regular review of adherence to core labor standards in the Trade Policy Review Mechanism established in Annex 3 to the WTO Agreement.

(E) To establish a working relationship between the WTO and the ILO—

(i) to identify opportunities in trade-affected sectors of the economies of WTO members to improve enforcement of internationally recognized core labor standards;

(ii) to provide WTO members with technical and legal assistance in developing and enforcing internationally recognized core labor standards; and

(iii) to provide technical assistance to the WTO to assist with the Trade Policy Review Mechanism.

(14) TRADE AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to trade and the environment are the following:

(A) To strengthen the role of the Committee on Trade and Environment of the WTO, including providing that the Committee would—

(i) review and comment on negotiations; and

(ii) review potential effects on the environment of WTO Agreements and future agreements of the WTO on liberalizing trade in natural resource products.

(B) To provide for regular review of adherence to environmental standards in the Trade Policy Review Mechanism of the WTO.

(C) To clarify exceptions under Article XX(b) and (g) of the GATT 1994 to ensure effective protection of human, animal, or plant life or health, and conservation of exhaustible natural resources.

(D) To amend Article XX of the GATT 1994 and Article XIV of the GATS to include an explicit exception for actions taken that are in accordance with those obligations under any multilateral environmental agreement accepted by both parties to a dispute.

(E) To amend Article XIV of the GATS to include an exception for measures relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

(F) To give priority to trade liberalization measures that promote sustainable development, including eliminating duties on environmental goods, and obtaining commitments on environmental services.

(G) To reduce subsidies in natural resource sectors (including fisheries and forest products) and export subsidies in agriculture.

(H) To improve coordination between the WTO and relevant international environmental organizations in the development of multilaterally accepted principles for sustainable development, including sustainable forestry and fishery practices.

(15) INSTITUTION BUILDING.—The principal negotiating objectives of the United States with respect to institution building are the following:

(A) To strengthen institutional mechanisms within the WTO that facilitate dialogue and coordinate activities between nongovernmental organizations and the WTO.

(B) To seek greater transparency of WTO processes and procedures for all WTO members by—

(i) promoting the improvement of internal communication between the Secretariat and all WTO members; and

(ii) establishing points of contact to facilitate communication between WTO members on any matter covered by the WTO Agreements.

(C) To improve coordination between the WTO and other international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, the ILO, the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, and the United Nations Environment Program to increase the effectiveness of technical assistance programs.

(D) To increase the efforts of the WTO, both on its own and through partnerships with other institutions, to provide technical assistance to developing countries, particularly least-developed countries, to promote the rule of law, to assist those countries in complying with their obligations under the World Trade Organization agreements, and to address the full range of challenges arising from implementation of such obligations.

(E) To improve the Trade Policy Review Mechanism of the WTO to cover a wider array of trade-related issues.

(16) TRADE AND INVESTMENT.—The principal negotiating objectives of the United States with respect to trade and investment are the following:

(A) To pursue further reduction of trade-distorting investment measures, including—

(i) by pursuing agreement to ensure the free transfer of funds related to investments;

(ii) by pursuing reduction or elimination of the exceptions to the principle of national treatment; and

(iii) by pursuing amendment of the illustrative list annexed to the WTO Agreement on Trade-Related Investment Measures (in this section also referred to as the ''TRIMs Agreement'') to include forced technology transfers, performance requirements, minimum investment levels, forced licensing of intellectual property, or other unreasonable barriers to the establishment or operation of investments as measures that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of the GATT 1994 or the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of the GATT 1994.

(B) To seek to strengthen the enforceability of and compliance with the TRIMs Agreement.

(17) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are the following:

(A) Make permanent and binding the moratorium on customs duties on electronic transmissions declared in the WTO Ministerial Declaration of May 20, 1998.

(B) Ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronically delivered goods and services.

(C) Ensure that the classification of electronically delivered goods and services ensures the most liberal trade treatment possible.

(D) Ensure that electronically delivered goods and services receive no less favorable treatment under WTO trade rules and commitments than like products delivered in physical form.

(E) Ensure that governments refrain from implementing trade-related measures that impede electronic commerce.

(F) Where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are nondiscriminatory, transparent, and promote an open market environment.

(G) Pursue a procompetitive regulatory environment for basic and value-added telecommunications services abroad, so as to facilitate the conduct of electronic commerce.

(H) Focus any future WTO work program on electronic commerce on educating WTO members regarding the benefits of electronic commerce and on facilitating the liberalization of trade barriers in areas that directly impede the conduct of electronic commerce.

(18) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States with respect to developing countries are the following:

(A) To enter into trade agreements that promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

(B) To ensure appropriate phase-in periods with respect to the obligations of least-developed countries.

(C) To coordinate with the World Bank, the International Monetary Fund, and other international institutions to provide debt relief and other assistance to promote the rule of law and sound and sustainable development.

(D) To accelerate tariff reductions that benefit least-developed countries.

(19) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States with respect to current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances that threaten the stability of the international trading system, by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate or by offering debt repayment on concessional terms.

(20) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States with respect to trade and monetary coordination is to foster stability in international currency markets and develop

mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions in order to protect against the trade consequences of significant and unanticipated currency movements.

(21) ACCESS TO HIGH TECHNOLOGY.—The principal negotiating objectives of the United States with respect to access to high technology are the following:

(A) To obtain the elimination or reduction of foreign barriers to, and of acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology.

(B) To seek the elimination of tariffs on all information technology products, infrastructure equipment, scientific instruments, and medical equipment.

(C) To pursue the reduction of foreign barriers to high technology products of the United States.

(D) To enforce and promote the Agreement on Technical Barriers to Trade, and ensure that standards, conformity assessments, and technical regulations are not used as obstacles to trade in information technology and communications products.

(E) To require all WTO members to sign the Information Technology Agreement of the WTO, and to expand and update product coverage under that agreement.

(22) CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are the following:

(A) To obtain standards applicable to persons from all countries participating in the applicable trade agreement that are equivalent to, or more restrictive than, the prohibitions applicable to issuers, domestic concerns, and other persons under section 30A of the Securities and Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977.

(B) To implement mechanisms to ensure effective enforcement of the standards described in subparagraph (A).

(23) IMPLEMENTATION OF EXISTING COMMITMENTS AND IMPROVEMENT OF THE WTO AND THE WTO AGREEMENTS.—The principal negotiating objectives of the United States with respect to implementation of existing commitments under the WTO are the following:

(A) To ensure that all WTO members comply fully with existing obligations under the WTO according to existing commitments and timetables.

(B) To strengthen the ability of the Trade Policy Review Mechanism within the WTO to review implementation by WTO members of commitments under the WTO.

(C) To undertake diplomatic and, as appropriate, dispute settlement efforts to promote compliance with commitments under the WTO.

(D) To extend the coverage of the WTO Agreements to products, sectors, and conditions of trade not adequately covered.

(c) NEGOTIATING OBJECTIVES FOR THE FTAA.—The principal negotiating objectives of the United States in seeking a trade agreement establishing a Free Trade Area for the Americas are the following:

(1) RECIPROCAL TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets equal to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by doing the following:

(A) Reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports, giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries and providing reasonable adjustment periods for import sensitive products of the United States, in close consultation with Congress.

(B) Eliminating disparities between applied and bound tariffs by reducing bound tariff levels.

(C) Enhancing the transparency of tariff regimes.

(D) Tightening disciplines governing the administration of tariff rate quotas.

(E) Establishing mechanisms to prevent agricultural products from being exported to FTAA members by countries that are not FTAA members with the aid of export subsidies.

(F) Maintaining bona fide food aid programs.

(G) Allowing the preservation of programs that support family farms and rural communities but do not distort trade.

(H) Eliminating state trading enterprises or, at a minimum, adopting rigorous disciplines that ensure transparency in the operations of such enterprises, including price transparency, competition, and the end of discriminatory practices, including policies supporting cross-subsidization, price discrimination, and price undercutting in export markets.

(I) Eliminating technology-based discrimination against agricultural commodities, and ensuring that the rules negotiated do not weaken rights and obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures.

(J) Eliminating practices that adversely affect trade in perishable or seasonal products, while improving import relief mechanisms to recognize the unique characteristics of perishable and seasonal agriculture. Before proceeding with negotiations with respect to agriculture, the Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of perishable and seasonal food products to be employed in the negotiations in order to develop a consensus on the treatment of such products in dumping or safeguard actions and in any other relevant area.

(K) Taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements.

(L) Taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements.

(M) Taking into account the impact that agreements covering agriculture to which the United States is a party, including NAFTA, have on the United States agricultural industry.

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States with respect to trade in services is to achieve, to the maximum extent possible, the elimination of barriers to, or other distortions of, trade in services in all modes of supply and across the broadest range of service sectors by doing the following:

(A) Pursuing agreement to treat negotiation of trade in services in a negative list manner whereby commitments will cover all services and all modes of supply unless particular services or modes of supply are expressly excluded.

(B) Achieving maximum liberalization of market access in all modes of supply, including by removing restrictions on the legal form of an investment or on the right to own all or a majority share of a service supplier, subject to national security exceptions.

(C) Removing regulatory and other barriers that deny national treatment, or unreasonably restrict the establishment or operations of service suppliers in foreign markets.

(D) Eliminating additional barriers to trade in services, including restrictions on access to services distribution networks and information systems, unreasonable or discriminatory licensing requirements, administration of cartels or toleration of anticompetitive activity, unreasonable delegation of regulatory powers to private entities, and similar government acts, measures, or policies affecting the sale, offering for sale, purchase, distribution, or use of services that have the effect of restricting access of services and service suppliers to a foreign market.

(E) Grandfathering existing concessions and liberalization commitments.

(F) Pursuing the strongest possible obligations to ensure that regulation of services and service suppliers in all respects, including by rulemaking, license-granting, standards-setting, and through judicial, administrative, and arbitral proceedings, is conducted in a transparent, reasonable, objective, and impartial manner and is otherwise consistent with principles of due process.

(G) Strongly opposing cultural exceptions to services obligations, especially relating to audiovisual services and service providers.

(H) Preventing discrimination against a like service when delivered through electronic means.

(I) Pursuing full market access and national treatment commitments for services sectors essential to supporting electronic commerce.

(J) Broadening and deepening existing commitments by other countries relating to basic and value-added telecommunications, including by—

(i) strengthening obligations and the implementation of obligations to ensure competitive, nondiscriminatory access to public telecommunication networks and services for Internet service providers and other value-added service providers; and

(ii) preventing anticompetitive behavior by major suppliers, including service suppliers that are either government owned or controlled or recently government owned or controlled.

(K) Broadening and deepening existing commitments of other countries relating to financial services.

(3) TRADE IN MANUFACTURED AND NONAGRICULTURAL GOODS.—The principal negotiating objectives of the United States with respect to trade in manufactured and nonagricultural goods are the following:

(A) To eliminate disparities between applied and bound tariffs by reducing bound tariff levels.

(B) To negotiate an agreement that includes reciprocal commitments to eliminate duties in sectors in which tariffs are currently approaching zero.

(C) To eliminate tariff and nontariff disparities remaining from previous rounds of multilateral trade negotiations that have put United States exports at a competitive disadvantage in world markets, especially tariff and nontariff barriers in foreign countries in those sectors where the United States imposes no significant barriers to imports and where foreign tariff and nontariff barriers are substantial.

(D) To obtain the reduction or elimination of tariffs on value-added products that provide a disproportionate level of protection compared to that provided to raw materials.

(E) To eliminate additional nontariff barriers to trade, including—

(i) anticompetitive restrictions on access to product distribution networks and information systems;

(ii) unreasonable or discriminatory inspection processes;

(iii) the administration of cartels, or the promotion, enabling, or toleration of anticompetitive activity;

(iv) unreasonable delegation of regulatory powers to private entities;

(v) unreasonable or discriminatory licensing requirements; and

(vi) similar government acts, measures, or policies affecting the sale, offering for sale, purchase, transportation, distribution, or use of goods that have the effect of restricting access of goods to a foreign market.

(4) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are the following:

(A) To provide for a single effective and expeditious dispute settlement mechanism and set of procedures that applies to all FTAA agreements.

(B) To ensure that dispute settlement mechanisms enable effective enforcement of the rights of the United States, including by providing, in all contexts, for the use of all remedies that are demonstrably effective to promote prompt and full compliance with the decision of a dispute settlement panel.

(C) To provide rules that promote cooperation by the governments of FTAA members in producing evidence in connection with dispute settlement proceedings, including copies of laws, regulations, and other measures that are the subject of or are directly relevant to the dispute, other than evidence that is classified on the basis of national security, and evidence that is business confidential.

(D) To require that all submissions by governments to FTAA dispute panels and any appellate body be made available to the public upon submission, providing appropriate exceptions for only that information included in a submission that is classified on the basis of national security or that is business confidential.

(E) To require that meetings of FTAA dispute panels and any appellate body with the parties to a dispute are open to other FTAA members and the public and provide for in camera treatment of only those portions of a proceeding dealing with evidence that is classified on the basis of national security or that is business confidential.

(F) To require that transcripts of proceedings of FTAA dispute panels and any appellate body be made available to the public promptly, providing appropriate exceptions for only that information included in the transcripts that is classified on the basis of national security or that is business confidential.

(G) To establish rules allowing for the submission of amicus curiae briefs to FTAA dispute panels and any appellate body, and to require that such briefs be made available to the public, providing appropriate exceptions for only that information included in the briefs that is classified on the basis of national security or that is business confidential.

(H) To pursue rules protecting against conflicts of interest by members of FTAA dispute panels and any appellate body, and promoting the selection of members for such panels and appellate body with the skills and time necessary to decide increasingly complex cases.

(I) To pursue the establishment of formal procedures under which the FTAA dispute panels and any appellate body seek advice from other fora of competent jurisdiction, such as the International Court of Justice, ILO, representative bodies established under international environmental agreements, and scientific experts.

(5) TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS.—The principal negotiating objectives of the United States with respect to trade-related aspects of intellectual property rights are the following:

(A) To ensure that the provisions of a regional trade agreement governing intellectual property rights that is entered into by the United States reflects a standard of protection similar to that found in United States law.

(B) To provide strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property.

(C) To prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.

(D) To ensure that standards of protection and enforcement keep pace with technological developments, including ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.

(E) To provide strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms.

(F) To secure fair, equitable and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(G) To prevent misuse of reference pricing classification systems by developed countries as a way to discriminate against innovative pharmaceutical products and innovative medical devices, without challenging valid reference pricing systems not used as a disguised restriction on trade.

(H)(i) To ensure that FTAA members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including taking actions that have the effect of increasing access to essential medicines and medical technologies, where such actions are consistent with obligations set forth in Article 31 of the TRIPs Agreement.

(ii) In situations involving infectious diseases, to encourage FTAA members that take actions described under clause (i) to also implement policies—

(I) to address the underlying causes necessitating the actions, including, in the case of infectious diseases, encouraging practices that will prevent further transmission and infection;

(II) to take steps to stimulate the development of the infrastructure necessary to deliver adequate health care services, including the essential medicines and medical technologies at issue;

(III) to ensure the safety and efficacy of the essential medicines and medical technologies involved; and

(IV) to make reasonable efforts to address the problems of supply of the essential medicines and medical technologies involved (other than by compulsory licensing).

(iii) To encourage FTAA members and the private sectors in their countries to work with the United Nations, the World Health Organization, the Inter-American Development Bank, the Organization of American States, and other relevant international organizations, including humanitarian relief organizations, to assist least-developed and developing countries in the region in increasing access to essential medicines and medical technologies through donations, sales at cost, funding or global medicines trust funds, and developing and implementing prevention efforts and health care infrastructure projects.

(6) TRANSPARENCY.—The principal negotiating objectives of the United States with respect to transparency are the following:

(A) To pursue the negotiation of an agreement—

(i) requiring that government laws, rules, and administrative and judicial decisions be published and made available to the public so that governments, businesses and the public have adequate notice of them;

(ii) requiring adequate notice before new rules are promulgated or existing rules amended;

(iii) encouraging governments to open rulemaking to public comment;

(iv) establishing that any administrative proceeding by any FTAA member relating to any of the FTAA agreements and applied to the persons, goods, or services of any other FTAA member shall be conducted in a manner that—

(I) gives persons of any other FTAA member affected by the proceeding reasonable notice, in accordance with domestic procedures, of when the proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in controversy;

(II) gives such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and

(III) is in accordance with domestic law; and

(v) requiring each FTAA member—

(I) to establish or maintain judicial, quasi-judicial, or administrative tribunals (impartial and independent of the office or authority entrusted with administrative enforcement) or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by any of the FTAA agreements;

(II) to ensure that, in such tribunals or procedures, parties to the proceeding are afforded a reasonable opportunity to support or defend their respective positions; and

(III) to ensure that such tribunals or procedures issue decisions based on the evidence and submissions of record or, where required by domestic law, the record compiled by the office or authority entrusted with administrative enforcement.

(B) To require the institution of regular meetings between officials of an FTAA secretariat, if established, and representatives of nongovernmental organizations, businesses and business groups, labor unions, consumer groups, and other representatives of civil society.

(C) To continue to maintain, expand, and update an official FTAA website in order to disseminate a wide range of information on the FTAA, including the draft texts of the agreements negotiated pursuant to the FTAA, the final text of such agreements, tariff information, regional trade statistics, and links to websites of FTAA member countries that provide further information on government regulations, procedures, and related matters.

(7) GOVERNMENT PROCUREMENT.—The principal negotiating objectives for the United

States with respect to government procurement are the following:

(A) To seek the acceptance by all FTAA members of the Agreement on Government Procurement.

(B) To seek conclusion of an agreement on transparency in government procurement.

(C) To promote global use of electronic publication of procurement information, including notices of procurement opportunities.

(8) TRADE REMEDY LAWS.—The principal negotiating objectives for the United States with respect to trade remedy laws are the following:

(A) To preserve the ability of the United States to enforce vigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and not enter into agreements that lessen in any respect the effectiveness of domestic and international disciplines—

(i) on unfair trade, especially dumping and subsidies, or

(ii) that address import increases or surges, such as under the safeguard remedy, in order to ensure that United States workers, farmers and agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.

(B) To eliminate the underlying causes of unfair trade practices and import surges, including closed markets, subsidization, promoting, enabling, or tolerating anticompetitive practices, and other forms of government intervention that generate or sustain excess, uneconomic capacity.

(9) TRADE AND LABOR MARKET STANDARDS.—The principal negotiating objectives of the United States with respect to trade and labor market standards are the following:

(A) To include enforceable rules that provide for the adoption and enforcement of the following core labor standards: the right of association, the right to bargain collectively, and prohibitions on employment discrimination, child labor, and slave labor.

(B) To establish as the trigger for invoking the dispute settlement process with respect to the obligations under subparagraph (A)—

(i) an FTAA member's failure to effectively enforce its domestic labor standards through a sustained or recurring course of action or inaction, in a manner affecting trade or investment; or

(ii) an FTAA member's waiver or other derogation from its domestic labor standards for the purpose of attracting investment, inhibiting exports by other FTAA members, or otherwise gaining a competitive advantage,

recognizing that—

(I) FTAA members retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor matters determined to have higher priorities; and

(II) FTAA members retain the right to establish their own domestic labor standards, and to adopt or modify accordingly labor policies, laws, and regulations, in a manner consistent with the core labor standards identified in subparagraph (A).

(C) To provide for phased-in compliance for least-developed countries comparable to mechanisms utilized in other FTAA agreements.

(D) To create an FTAA work program that—

(i) will provide guidance and technical assistance to FTAA members in supplementing and strengthening their labor laws and regulations, including, in particular, laws and regulations relating to the core labor standards identified in subparagraph (A); and

(ii) includes commitments by FTAA members to provide market access incentives for the least-developed FTAA members to improve adherence to and enforcement of the core labor standards identified in subparagraph (A), and to meet their schedule for phased-in compliance on or ahead of schedule.

(E) To provide for regular review of adherence to core labor standards.

(F) To create exceptions from the obligations under the FTAA agreements for—

(i) products produced by prison labor or slave labor, and products produced by child labor proscribed by Convention 182 of the ILO; and

(ii) actions taken consistent with, and in furtherance of, recommendations made by the ILO.

(10) TRADE AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to trade and the environment are the following:

(A) To obtain rules that provide for the enforcement of environmental laws and regulations relating to—

(i) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

(ii) the control of environmentally hazardous or toxic chemicals, substances, materials and wastes, and the dissemination of information related thereto; and

(iii) the protection of wild flora or fauna, including endangered species, their habitats, and specially protected natural areas, in the territory of FTAA member countries.

(B) To establish as the trigger for invoking the dispute settlement process—

(i) an FTAA member's failure to effectively enforce such laws and regulations through a sustained or recurring course of action or inaction, in a manner affecting trade or investment, or

(ii) an FTAA member's waiver or other derogation from its domestic environmental laws and regulations, for the purpose of attracting investment, inhibiting exports by other FTAA members, or otherwise gaining a competitive advantage,

recognizing that—

(I) FTAA members retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities; and

(II) FTAA members retain the right to establish their own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly environmental policies, laws, and regulations.

(C) To provide for phased-in compliance for least-developed countries, comparable to mechanisms utilized in other FTAA agreements.

(D) To create an FTAA work program that—

(i) will provide guidance and technical assistance to FTAA members in supplementing and strengthening their environmental laws and regulations based on—

(I) the standards in existing international agreements that provide adequate protection; or

(II) the standards in the laws of other FTAA members if the standards in international agreements standards are inadequate or do not exist; and

(ii) includes commitments by FTAA members to provide market access incentives for the least-developed FTAA members to strengthen environmental laws and regulations.

(E) To provide for regular review of adherence to environmental laws and regulations.

(F) To create exceptions from obligations under the FTAA agreements for—

(i) measures taken to provide effective protection of human, animal, or plant life or health;

(ii) measures taken to conserve exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption; and

(iii) measures taken that are in accordance with obligations under any multilateral environmental agreement accepted by both parties to a dispute.

(G) To give priority to trade liberalization measures that promote sustainable development, including eliminating duties on environmental goods, and obtaining commitments on environmental services.

(11) INSTITUTION BUILDING.—The principal negotiating objectives of the United States with respect to institution building are the following:

(A) To improve coordination between the FTAA and other international organizations such as the Organization of American States, the ILO, the United Nations Environment Program, and the Inter-American Development Bank to increase the effectiveness of technical assistance programs.

(B) To ensure that the agreements entered into under the FTAA provide for technical assistance to developing and, in particular, least-developed countries that are members of the FTAA to promote the rule of law, enable them to comply with their obligations under the FTAA agreements, and minimize disruptions associated with trade liberalization.

(12) TRADE AND INVESTMENT.—The principal negotiating objectives of the United States with respect to trade and investment are the following:

(A) To reduce or eliminate artificial or trade-distorting barriers to foreign investment by United States persons and, recognizing that United States law on the whole provides a high level of protection for investments, consistent with or greater than the level required by international law, to secure for investors the rights that would be available under United States law, but no greater rights, by—

(i) ensuring national and most-favored nation treatment for United States investors and investments;

(ii) freeing the transfer of funds relating to investments;

(iii) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(iv) establishing standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice, including by clarifying that expropriation does not arise in cases of mere diminution in value;

(v) codifying the clarifications made on July 31, 2001, by the Free Trade Commission established under Article 2001 of the NAFTA with respect to the minimum standard of treatment under Article 1105 of the NAFTA such that—

(I) any provisions included in an investment agreement setting forth a minimum standard of treatment prescribe only that level of treatment required by customary international law; and

(II) a determination that there has been a breach of another provision of the FTAA, or of a separate international agreement, does not establish that there has been a breach of the minimum standard of treatment;

(vi) ensuring, through clarifications, presumptions, exceptions, or other means in the text of the agreement, that the investor protections do not interfere with an FTAA

member's exercise of its police powers under its local, State, and national laws (for example legitimate health, safety, environmental, consumer, and employment opportunity laws and regulations), including by a clarification that the standards in an agreement do not require use of the least trade restrictive regulatory alternative;

(vii) providing an exception for actions taken in accordance with obligations under a multilateral environmental agreement agreed to by both countries involved in the dispute;

(viii) providing meaningful procedures for resolving investment disputes;

(ix) ensuring that—

(I) no claim by an investor directly against a state may be brought unless the investor first submits the claim for approval to the home government of the investor;

(II) such approval is granted for each claim which the investor demonstrates is meritorious;

(III) such approval is considered granted if the investor's home government has not acted upon the submission within a defined reasonable period of time; and

(IV) each FTAA member establishes or designates an independent decisionmaker to determine whether the standard for approval has been satisfied; and

(x) providing a standing appellate mechanism to correct erroneous interpretations of law.

(B) To ensure the fullest measure of transparency in the dispute settlement mechanism established, by—

(i) ensuring that all requests for dispute settlement are promptly made public, to the extent consistent with the need to protect information that is classified or business confidential;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions, are promptly made public; and

(II) all hearings are open to the public, to the extent consistent with need to protect information that is classified or business confidential; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(13) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are the following:

(A) To make permanent and binding on FTAA members the moratorium on customs duties on electronic transmissions declared in the WTO Ministerial Declaration of May 20, 1998.

(B) To ensure that governments refrain from implementing trade-related measures that impede electronic commerce.

(C) To ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form.

(D) To ensure that the classification of electronically delivered goods and services ensures the most liberal trade treatment possible.

(E) Where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are nondiscriminatory, transparent, and promote an open market environment.

(F) To pursue a regulatory environment that encourages competition in basic telecommunications services abroad, so as to facilitate the conduct of electronic commerce.

(14) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States with respect to developing countries are the following:

(A) To enter into trade agreements that promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

(B) To ensure appropriate phase-in periods with respect to the obligations of least-developed countries.

(C) To coordinate with the Organization of American States, the Inter-American Development Bank, and other regional and international institutions to provide debt relief and other assistance to promote the rule of law and sound and sustainable development.

(D) To accelerate tariff reductions that benefit least-developed countries.

(15) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States with respect to trade and monetary coordination is to foster stability in international currency markets and develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions in order to protect against the trade consequences of significant and unanticipated currency movements.

(16) ACCESS TO HIGH TECHNOLOGY.—The principal negotiating objectives of the United States with respect to access to high technology are the following:

(A) To obtain the elimination or reduction of foreign barriers to, and of acts, policies, or practices by foreign governments that limit, equitable access by United States persons to foreign-developed technology.

(B) To seek the elimination of tariffs on all information technology products, infrastructure equipment, scientific instruments, and medical equipment.

(C) To pursue the reduction of foreign barriers to high technology products of the United States.

(D) To enforce and promote the Agreement on Technical Barriers to Trade, and ensure that standards, conformity assessment, and technical regulations are not used as obstacles to trade in information technology and communications products.

(E) To require all parties to sign the Information Technology Agreement of the WTO and to expand and update product coverage under such agreement.

(17) CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage are—

(A) to obtain standards applicable to persons from all FTAA member countries that are equivalent to, or more restrictive than, the prohibitions applicable to issuers, domestic concerns, and other persons under section 30A of the Securities and Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977; and

(B) to implement mechanisms to ensure effective enforcement of the standards described in subparagraph (A).

(d) BILATERAL AGREEMENTS.—

(1) PRINCIPAL NEGOTIATING OBJECTIVES.—The principal negotiating objectives of the United States in seeking bilateral trade agreements are those objectives set forth in subsection (c), except that in applying such subsection, any references to the FTAA or FTAA member countries shall be deemed to refer to the bilateral agreement, or party to the bilateral agreement, respectively.

(2) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

(e) DOMESTIC OBJECTIVES.—In pursuing the negotiating objectives under subsections (a) through (d), United States negotiators shall take into account legitimate United States domestic (including State and local) objectives, including, but not limited to, the protection of health and safety, essential security, environmental, consumer, and employment opportunity interests and the laws and regulations related thereto.

SEC. 3. CONGRESSIONAL TRADE ADVISERS.

Section 161(a)(1) of the Trade Act of 1974 (19 U.S.C. 2211(a)(1)) is amended to read as follows:

''(1) At the beginning of each regular session of Congress—

''(A) the Speaker of the House of Representatives shall—

''(i) upon the recommendation of the chairman and ranking member of the Committee on Ways and Means, select 5 members (not more than 3 of whom are members of the same political party) of such committee,

''(ii) upon the recommendation of the chairman and ranking member of the Committee on Agriculture, select 2 members (from different political parties) of such committee, and

''(iii) upon the recommendation of the majority leader and minority leader of the House of Representatives, select 2 members of the House of Representatives (from different political parties), and

''(B) the President pro tempore of the Senate shall—

''(i) upon the recommendation of the chairman and ranking member of the Committee on Finance, select 5 members (not more than 3 of whom are members of the same political party) of such committee,

''(ii) upon the recommendation of the chairman and ranking member of the Committee on Agriculture, Nutrition, and Forestry, select 2 members (from different political parties) of such committee, and

''(iii) upon the recommendation of the majority leader and minority leader of the Senate, select 2 members of the Senate (from different political parties),

who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, dispute settlement proceedings, and negotiating sessions relating to trade agreements.''.

SEC. 4. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) the date that is 5 years after the date of the enactment of this Act, or

(ii) the date that is 7 years after such date of enactment, if fast track procedures are extended under subsection (c), and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applied on such date of enactment.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 7 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization or as part of an interim agreement leading to the formation of a regional free-trade area.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) the date that is 5 years after the date of the enactment of this Act, or

(ii) the date that is 7 years after such date of enactment, if fast track procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement substantially achieves the applicable objectives described in section 2 and the conditions set forth in sections 5, 6, and 7 are met.

(3) BILLS QUALIFYING FOR FAST TRACK PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as ''fast track procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an ''implementing bill''.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement;

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority; and

(iii) provisions to provide trade adjustment assistance to workers, firms, and communities.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL FAST TRACK PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 5(c), 6(c), and 7(b)—

(A) the fast track procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before the date that is 5 years after the date of the enactment of this Act; and

(B) the fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) on or after the date specified in subparagraph (A) and before the date that is 7 years after the date of such enactment if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (6) before the date specified in subparagraph (A).

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the fast track procedures should be extended to implementing bills to carry out trade agreements under subsection (b), the President shall submit to the Congress, not later than 3 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than 2 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORT TO CONGRESS BY CONGRESSIONAL TRADE ADVISERS.—The President shall promptly inform the congressional trade advisers of the President's decision to submit a report to the Congress under paragraph (2). The congressional trade advisers shall submit to the Congress as soon as practicable, but not later than 2 months before the expiration of the 5-year period specified in paragraph (1)(A), a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act; and

(B) a statement of their views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(5) REPORTS MAY BE CLASSIFIED.—The reports under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate, and the report under paragraph (4), or any portion thereof, may be classified.

(6) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 4(c)(1)(B)(i) of the Comprehensive Trade Negotiating Authority Act of 2001, of the fast track procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 4(b) of that Act after the date that is 5 years after the date of the enactment of that Act.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after the date that is 5 years after the date of the enactment of this Act.

SEC. 5. COMMENCEMENT OF NEGOTIATIONS.

(a) IN GENERAL.—In order to contribute to the continued economic expansion of the United States and to benefit United States workers, farmers, and businesses, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. The President shall commence negotiations—

(1) to expand existing sectoral agreements to countries that are not parties to those agreements; and

(2) to promote growth, open global markets, and raise standards of living in the United States and other countries and promote sustainable development.

Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products.

(b) CONSULTATION REGARDING NEGOTIATING OBJECTIVES.—With respect to any negotiations for a trade agreement under section 4(b), the following shall apply:

(1) The President shall, in developing strategies for pursuing negotiating objectives set forth in section 2 and other relevant negotiating objectives to be pursued in negotiations, consult with—

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

(B) the congressional trade advisers; and

(C) other appropriate committees of Congress.

(2) The President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by the country or countries with which the negotiations will be conducted. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(c) NOTICE OF INITIATION; DISAPPROVAL RESOLUTIONS.—

(1) NOTICE.—The President shall—

(A) provide, at least 90 calendar days before initiating the proposed negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific negotiating objectives to be pursued in the negotiations, and whether the President intends to seek an agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, the congressional trade advisers, and such other committees of the House of Representatives and the Senate as the President deems appropriate.

(2) RESOLUTIONS DISAPPROVING INITIATION OF NEGOTIATIONS.—

(A) INAPPLICABILITY OF FAST TRACK PROCEDURES TO AGREEMENTS OF WHICH CERTAIN NOTICE GIVEN.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 4(b) pursuant to negotiations with 2 or more countries of which notice is given under paragraph (1)(A) if, during the 90-day period referred to in that subsection, each House of Congress agrees to a disapproval resolution described in subparagraph (B) with respect to the negotiations.

(B) DISAPPROVAL RESOLUTIONS.—For purposes of this paragraph, the term ''disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the negotiations of which the President notified the Congress on ____, under section 5(c)(1) of the Comprehensive Trade Negotiating Authority Act of 2001 and, therefore, the fast track procedures under that Act shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.'', with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with the appropriate date.

(3) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Disapproval resolutions to which paragraph (2) applies—

(i) in the House of Representatives—

(I) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(II) may not be amended by either Committee; and

(ii) in the Senate shall be referred to the Committee on Finance.

(B) The provisions of section 152 (c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (2) applies. In applying section 152(c)(1) of the Trade Act of 1974, all calendar days shall be counted.

(C) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (B).

SEC. 6. CONGRESSIONAL PARTICIPATION DURING NEGOTIATIONS.

(a) CONSULTATIONS WITH CONGRESSIONAL TRADE ADVISERS AND COMMITTEES OF JURISDICTION.—In the course of negotiations conducted under this Act, the Trade Representative shall—

(1) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the congressional trade advisers, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate;

(2) with respect to any negotiations and agreement relating to agriculture, also consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(3) consult closely and on a timely basis with other appropriate committees of Congress.

(b) GUIDELINES FOR CONSULTATIONS.—

(1) GUIDELINES.—The Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the congressional trade advisers—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative, the committees referred to in subsection (a), and the congressional trade advisers; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of each committee referred to in subsection (a) and the congressional trade advisers regarding negotiating objectives and positions and the status of negotiations, with more frequent briefings as trade negotiations enter the final stages;

(B) access by members of each such committee, the congressional trade advisers, and staff with proper security clearances, to pertinent documents relating to negotiations, including classified materials; and

(C) the closest practicable coordination between the Trade Representative, each such committee, and the congressional trade advisers at all critical periods during negotiations, including at negotiation sites.

(c) DISAPPROVAL RESOLUTIONS WITH RESPECT TO ONGOING NEGOTIATIONS.—

(1) NEGOTIATIONS OF WHICH NOTICE GIVEN.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 4(b) pursuant to negotiations of which notice is given under section 5(c)(1) if, at any time after the end of the 90-day period referred to in section 5(c)((1), during the 120-day period beginning on the date that one House of Congress agrees to a disapproval resolution described in paragraph (3)(A) disapproving the negotiations, the other House separately agrees to a disapproval resolution described in paragraph (3)(A) disapproving those negotiations. The disapproval resolutions of the two Houses need not be in agreement with respect to disapproving any other negotiations.

(2) PRIOR NEGOTIATIONS.—Fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement to which section 8(a) applies if, during the 120-day period beginning on the date that one House of Congress agrees to a disapproval resolution described in paragraph (3)(B) disapproving the negotiations for that agreement, the other House separately agrees to a disapproval resolution described in paragraph (3)(B) disapproving those negotiations. The disapproval resolutions of the

two Houses need not be in agreement with respect to disapproving any other negotiations.

(3) DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term ''disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the ___ disapproves the negotiations of which the President notified the Congress on ___, under section 5(c)(1) of the Comprehensive Trade Negotiating Authority Act of 2001 and, therefore, the fast track procedures under that Act shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.'', with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with the appropriate date or dates (in the case of more than 1 set of negotiations being conducted).

(B) For purposes of paragraph (2), the term ''disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the ___ disapproves the negotiations with respect to ___, and, therefore, the fast track procedures under the Comprehensive Trade Negotiating Authority Act of 2001 shall not apply to any implementing bill submitted with respect to any trade agreement entered into pursuant to those negotiations.'', with the first blank space being filled with the name of the resolving House of Congress, and the second blank space being filled with a description of the applicable trade agreement or agreements.

(4) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Any disapproval resolution to which paragraph (1) or (2) applies—

(i) in the House of Representatives—

(I) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(II) may not be amended by either Committee; and

(ii) in the Senate shall be referred to the Committee on Finance.

(B) The provisions of section 152 (c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (1) or (2) applies if—

(i) there are at least 145 cosponsors of the resolution, in the case of a resolution of the House of Representatives, and at least 34 cosponsors of the resolution, in the case of a resolution of the Senate; and

(ii) no resolution that meets the requirements of clause (i) has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

In applying section 152(c)(1) of the Trade Act of 1974, all calendar days shall be counted.

(C) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (B).

(5) COMPUTATION OF CERTAIN TIME PERIODS.—Each period of time referred to in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House of Congress is not in session.

(d) ENVIRONMENTAL ASSESSMENT.—

(1) INITIATION OF ASSESSMENT.—Upon the commencement of negotiations for a trade agreement under section 4(b), the Trade Representative, jointly with the Chair of the Council on Environmental Quality, and in consultation with other appropriate Federal agencies, shall commence an assessment of the effects on the environment of the proposed trade agreement.

(2) CONTENT.—The assessment under paragraph (1) shall include an examination of—

(A) the potential effects of the proposed trade agreement on the environment, natural resources, and public health;

(B) the extent to which the proposed trade agreement may affect the laws, regulations, policies, and international agreements of the United States, including State and local laws, regulations, and policies, relating to the environment, natural resources, and public health;

(C) measures to implement, and alternative approaches to, the proposed trade agreement that would minimize adverse effects and maximize benefits identified under subparagraph (A); and

(D) a detailed summary of the manner in which the results of the assessment were taken into consideration in negotiation of the proposed trade agreement, and in development of measures and alternative means identified under subparagraph (C).

(3) PROCEDURES.—The Trade Representative shall commence the assessment under paragraph (1) by publishing notice thereof, and a request for comments thereon, in the Federal Register and transmitting notice thereof to the Congress. The notice shall be given as soon as possible after sufficient information exists concerning the scope of the proposed trade agreement, but in no case later than 30 calendar days before the applicable negotiations begin. The notice shall contain—

(A) the principal negotiating objectives of the United States to be pursued in the negotiations;

(B) the elements and topics expected to be under consideration for coverage by the proposed trade agreement;

(C) the countries expected to participate in the agreement; and

(D) the sectors of the United States economy likely to be affected by the agreement.

(4) CONSULTATIONS WITH CONGRESS.—The Trade Representative shall submit to the Congress—

(A) within 6 months after the onset of negotiations, a preliminary draft of the environmental assessment conducted under this subsection; and

(B) not later than 90 calendar days before the agreement is signed by the President, the final version of the environmental assessment.

(5) PARTICIPATION OF OTHER FEDERAL AGENCIES AND DEPARTMENTS.—(A) In conducting the assessment required under paragraph (1), the Trade Representative and the Chair of the Council on Environmental Quality shall draw upon the knowledge of the departments and agencies with relevant expertise in the subject matter under consideration, including, but not limited to, the Environmental Protection Agency, the Departments of the Interior, Agriculture, Commerce, Energy, State, the Treasury, and Justice, the Agency for International Development, the Council of Economic Advisors, and the International Trade Commission.

(B) The heads of the departments and agencies identified in subparagraph (A), and the heads of other departments and agencies with relevant expertise shall provide such resources as are necessary to conduct the assessment required under this subsection.

(6) CONSULTATIONS WITH THE ADVISORY COMMITTEE.—(A) Section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) is amended in the first sentence—

(i) by striking ''may establish'' and inserting ''shall establish''; and

(ii) by inserting ''environmental issues,'' after ''defense''.

(B) In developing measures and alternatives means identified under paragraph (2)(C), the Trade Representative and the Chair of the Council on Environmental Quality shall consult with the environmental general policy advisory committee established pursuant to section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)), as amended by subparagraph (A) of this paragraph.

(7) PUBLIC PARTICIPATION.—The Trade Representative shall publish the preliminary and final environmental assessments in the Federal Register. The Trade Representative shall take into account comments received from the public pursuant to notices published under this subsection and shall include in the final assessment a discussion of the public comments reflected in the assessment.

(e) LABOR REVIEW.—

(1) INITIATION OF REVIEW.—Upon the commencement of negotiations for a trade agreement under section 4(b), the Trade Representative, jointly with the Secretary of Labor and the Commissioners of the International Trade Commission, and in consultation with other appropriate Federal agencies, shall commence a review of the effects on workers in the United States of the proposed trade agreement.

(2) CONTENT.—The review under paragraph (1) shall include an examination of—

(A) the extent to which the proposed trade agreement may affect job creation, worker displacement, wages, and the standard of living for workers in the United States;

(B) the scope and magnitude of the effect of the proposed trade agreement on the flow of workers to and from the United States;

(C) the extent to which the proposed agreement may affect the laws, regulations, policies, and international agreements of the United States relating to labor; and

(D) proposals to mitigate any negative effects of the proposed trade agreement on workers, firms, and communities in the United States, including proposals relating to trade adjustment assistance.

(3) PROCEDURES.—The Trade Representative shall commence the review under paragraph (1) by publishing notice thereof, and a request for comments thereon, in the Federal Register and transmitting notice thereof to the Congress. The notice shall be given not later than 30 calendar days before the applicable negotiations begin. The notice shall contain—

(A) the principal negotiating objectives of the United States to be pursued in the negotiations;

(B) the elements and topics expected to be under consideration for coverage by the proposed trade agreement;

(C) the countries expected to participate in the agreement; and

(D) the sectors of the United States economy likely to be affected by the agreement.

(4) CONSULTATIONS WITH CONGRESS.—The Trade Representative shall submit to the Congress—

(A) within 6 months after the onset of negotiations, a preliminary draft of the labor review conducted under this subsection; and

(B) not later than 90 calendar days before the agreement is signed by the President, the final version of the labor review.

(5) PARTICIPATION OF OTHER DEPARTMENTS AND AGENCIES.—(A) In conducting the review required under paragraph (1), the Trade Representative, the Secretary of Labor, and the International Trade Commission shall draw upon the knowledge of the departments and agencies with relevant expertise in the subject matter under consideration.

(B) The heads of the departments and agencies referred to in subparagraph (A) shall provide such resources as are necessary to conduct the review required under this subsection.

(6) CONSULTATION WITH THE ADVISORY COMMITTEE.—In developing proposals under paragraph (2)(D), the Trade Representative and the Secretary of Labor shall consult with the labor general policy advisory committee established pursuant to section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)), as amended by subsection (d)(6)(A) of this section.

(7) PUBLIC PARTICIPATION.—The Trade Representative shall publish the preliminary and final labor reviews in the Federal Register. The Trade Representative shall take into account comments received from the public pursuant to notices published under this subsection and shall include in the final review a discussion of the public comments reflected in the review.

(f) NOTICE OF EFFECT ON UNITED STATES TRADE REMEDIES.—

(1) NOTICE.—In any case in which negotiations being conducted to conclude a trade agreement under section 4(b) could affect the trade remedy laws of the United States or the rights or obligations of the United States under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, or the Agreement on Safeguards, except insofar as such negotiations are directly and exclusively related to perishable and seasonal agricultural products, the Trade Representative shall, at least 90 calendar days before the President signs the agreement, notify the Congress of the specific language that is the subject of the negotiations and the specific possible impact on existing United States laws and existing United States rights and obligations under those WTO Agreements.

(2) DEFINITION.—In this subsection, the term ''trade remedy laws of the United States'' means section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), section 406 of the Trade Act of 1974 (19 U.S.C. 2436), and chapter 2 of title IV of the Trade Act of 1974 (19 U.S.C. 2451 et seq.).

(g) REPORT ON INVESTMENT DISPUTE SETTLEMENT MECHANISM.—If any agreement concluded under section 4(b) with respect to trade and investment includes a dispute settlement mechanism allowing an investor to bring a claim directly against a country, the President shall submit a report to the Congress, not later than 90 calendar days before the President signs the agreement, explaining in detail the meaning of each standard included in the dispute settlement mechanism, and explaining how the agreement does not interfere with the exercise by a signatory to the agreement of its police powers under its national (including State and local) laws, including legitimate health, safety, environmental, consumer, and employment opportunity laws and regulations.

(h) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 4(b), the President shall consult with—

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

(B) the congressional trade advisers; and

(C) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this Act; and

(C) the implementation of the agreement under section 7, including the general effect of the agreement on existing laws.

(i) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 4(a) or (b) of this Act shall be provided to the President, the Congress, and the Trade Representative not later than 30 calendar days after the date on which the President notifies the Congress under section 7(a)(1)(A) of the President's intention to enter into the agreement.

(j) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 4(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

(k) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Section 4(c), section 5(c), and subsection (c) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION, SUBMISSION, AND ENACTMENT.—Any agreement entered into under section 4(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 120 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, certifies to the Congress the trade agreement substantially achieves the principal negotiating objectives set forth in section 2 and those developed under section 5(b)(1);

(C) within 60 calendar days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(D) after entering into the agreement, the President submits to the Congress a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(E) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(D)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement substantially achieves the applicable purposes, policies, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement substantially achieves the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives;

(II) how the agreement serves the interests of United States commerce; and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement; and

(II) the agreement applies to or affects purchases and sales by such enterprises.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 4(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide

that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON FAST TRACK PROCEDURES; CONCURRENCE BY CONGRESSIONAL TRADE ADVISERS IN PRESIDENT'S CERTIFICATION.—

(1) CONCURRENCE BY CONGRESSIONAL TRADE ADVISERS.—The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement of which notice was provided under subsection (a)(1)(A) unless a majority of the congressional trade advisers, by a vote held not later than 30 days after the President submits the certification to Congress under subsection (a)(1)(B) with respect to the trade agreement, concur in the President's certification. The failure of the congressional trade advisers to hold a vote within that 30-day period shall be considered to be concurrence in the President's certification.

(2) COMPUTATION OF TIME PERIOD.—The 30-day period referred to in paragraph (1) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House of Congress is not in session.

SEC. 8. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 4(b)(2), if an agreement to which section 4(b) applies—

(1) is entered into under the auspices of the World Trade Organization regarding the rules of origin work program described in article 9 of the Agreement on Rules of Origin,

(2) is entered into otherwise under the auspices of the World Trade Organization,

(3) is entered into with Chile,

(4) is entered into with Singapore, or

(5) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the fast track procedures to implementing bills shall be determined without regard to the requirements of section 5; and

(2) the President shall consult regarding the negotiations described in subsection (a) with the committees described in section 5(b)(1) and the congressional trade advisers as soon as feasible after the enactment of this Act.

(c) APPLICABILITY OF ENVIRONMENTAL ASSESSMENT.—

(1) URUGUAY ROUND AGREEMENTS AND FTAA.—With respect to agreements identified in paragraphs (2) and (5) of subsection (a)—

(A) the notice required under section 6(d)(3) shall be given not later than 30 days after the date of the enactment of this Act; and

(B) the preliminary draft of the environmental assessment required under section 6(d)(4) shall be submitted to the Congress not later than 18 months after such date of enactment.

(2) CHILE AND SINGAPORE.—With respect to agreements identified in paragraphs (3) and (4) of subsection (a), the Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate to determine the appropriate time frame for submission to the Congress of an environmental assessment meeting the requirements of section 6(d)(2).

(3) RULES OF ORIGIN.—The requirements of section 6(d)(1) shall not apply to an agreement identified in subsection (a)(1).

(d) APPLICABILITY OF LABOR REVIEW.—

(1) URUGUAY ROUND AGREEMENTS AND FTAA.—With respect to agreements identified in paragraphs (2) and (5) of subsection (a)—

(A) the notice required under section 6(e)(3) shall be given not later than 30 days after the date of the enactment of this Act; and

(B) the preliminary draft of the labor review required under section 6(e)(4) shall be submitted to the Congress not later than 18 months after such date of enactment.

(2) CHILE AND SINGAPORE.—With respect to agreements identified in paragraphs (3) and (4) of subsection (a), the Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate to determine the appropriate time frame for submission to the Congress of an environmental assessment meeting the requirements of section 6(e)(2).

(3) RULES OF ORIGIN.—The requirements of section 6(e)(1) shall not apply to an agreement identified in subsection (a)(1).

SEC. 9. ADDITIONAL REPORT AND STUDIES.

(a) REPORT ON TRADE-RESTRICTIVE PRACTICES.—Not later than 1 year after the date of the enactment of this Act, the President shall transmit to the Congress a report on trade-restrictive practices of foreign countries that are promoted, enabled, or facilitated by governmental or private entities in those countries, or that involve the delegation of regulatory powers to private entities.

(b) ANNUAL STUDY ON FLUCTUATIONS IN EXCHANGE RATE.—The Trade Representative shall prepare and submit to the Congress, not later than ____ of each year, a study of how fluctuations in the exchange rate caused by the monetary policies of the trading partners of the United States affect trade.

SEC. 10. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

At the time the President submits to the Congress the final text of an agreement pursuant to section 7(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring, implementing, and enforcing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to evaluate sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, the Environmental Protection Agency, the Department of the Interior, the Department of Labor, and such other departments and agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 7(a)(1) of the Comprehensive Trade Negotiating Authority Act of 2001''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 7(a)(1) of the Comprehensive Trade Negotiating Authority Act of 2001''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 4(a) or (b) of the Comprehensive Trade Negotiating Authority Act of 2001,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 4(b) of the Comprehensive Trade Negotiating Authority Act of 2001'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 4(a)(3)(A) of the Comprehensive Trade Negotiating Authority Act of 2001'' before the end period; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 4 of the Comprehensive Trade Negotiating Authority Act of 2001,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 4 of the Comprehensive Trade Negotiating Authority Act of 2001,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 4 of the Comprehensive Trade Negotiating Authority Act of 2001''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 4 of the Comprehensive Trade Negotiating Authority Act of 2001'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 4 of the Comprehensive Trade Negotiating Authority Act of 2001''; and

(ii) by striking ''section 1103(a)(1)(A) of such Act of 1988'' and inserting ''section 7(a)(1)(A) of the Comprehensive Trade Negotiating Authority Act of 2001''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2 of the Comprehensive Trade Negotiating Authority Act of 2001''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 4 of the Comprehensive Trade Negotiating Authority Act of 2001''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 4 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 4 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 12. DEFINITIONS.

In this Act:

(1) AGREEMENTS.—Any reference to any of the following agreements is a reference to that same agreement referred to in section 101(d) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)):

(A) The Agreement on Agriculture.

(B) The Agreement on the Application of Sanitary and Phytosanitary Measures.

(C) The Agreement on Technical Barriers to Trade.

(D) The Agreement on Trade-Related Investment Measures.

(E) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(F) The Agreement on Rules of Origin.

(G) The Agreement on Subsidies and Countervailing Measures.

(H) The Agreement on Safeguards.

(I) The General Agreement on Trade in Services.

(J) The Agreement on Trade-Related Aspects of Intellectual Property Rights.

(K) The Agreement on Government Procurement.

(2) ANTIDUMPING AGREEMENT.—The term ''Antidumping Agreement'' means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(3) APPELLATE BODY; DISPUTE SETTLEMENT BODY; DISPUTE SETTLEMENT PANEL; DISPUTE SETTLEMENT UNDERSTANDING.—The terms ''Appellate Body'', ''Dispute Settlement Body'', ''dispute settlement panel'', and ''Dispute Settlement Understanding'' have the meanings given those terms in section 121 of the Uruguay Round Agreements Act (35 U.S.C. 3531).

(4) BUSINESS CONFIDENTIAL.—Information or evidence is ''business confidential'' if disclosure of the information or evidence is likely to cause substantial harm to the competitive position of the entity from which the information or evidence would be obtained.

(5) CONGRESSIONAL TRADE ADVISERS.—The term ''congressional trade advisers means the congressional advisers for trade policy and negotiations designated under section 161(a)(1) of the Trade Act of 1974 (19 U.S.C. 2211(a)(1)).

(6) FTAA.—The term ''FTAA'' means the Free Trade Area of the Americas or comparable agreement reached between the United States and the countries in the Western Hemisphere.

(7) FTAA AGREEMENT.—The term ''FTAA agreements'' means any agreements entered into to establish or carry out the FTAA.

(8) FTAA MEMBER; FTAA MEMBER COUNTRY.—The terms ''FTAA member'' and ''FTAA member country'' mean a country that is a member of the FTAA.

(9) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(10) ILO.—The term ''ILO'' means the International Labor Organization.

(11) IMPLEMENTING BILL.—The term ''implementing bill'' has the meaning given that term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(12) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement.

(13) TRADE REPRESENTATIVE.—The term ''Trade Representative'' means the United States Trade Representative.

(14) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(15) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(16) WTO.—The term ''WTO'' means the organization established pursuant to the WTO Agreement.

(17) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

Mr. RANGEL (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 New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes on his motion to recommit.

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

Mr. Speaker, this is a very emotional time for me, because our Speaker said that this bill is just as important as fighting the war against terrorism. I think that is a big stretch, to compare the loss of American lives at Ground Zero to the passage of this bill as being on the same level. We cannot bring back those lives at Ground Zero, but we can get another chance to give the President the authority that so many of us believe that he wants and he deserves in order to have an effective trade policy.

We do not believe that under our government and the democratic way that we expect to legislate, that what we are doing is undercutting the President of the United States. We believe in our democratic world that the majority and the minority should have an opportunity to express themselves, and the fact that someone can pick up some Democratic friends in the middle of the night does not mean that the process of having bills and having hearings on bills and amendments on bills and having the people on the Committee on Ways and Means have an opportunity to discuss these things means to take away these rights, and for us to stand up for what we know is morally and legislatively right, that we are undercutting the President of the United States.

If the Committee on Rules says that we cannot express ourselves, we will fight on this. But we will salute that flag just as high as anybody else. And to infer that to vote against this piece of legislation, which we have no idea where it is going in the Senate, that it is the end of the day and that we are not fighting, that we are not as patriotic as the next American, wrong.

I will tell you this: This is just the beginning of our fight against terrorism, and this should be the beginning of us continuing to fight hard to maintain bipartisanship in this House and on the other side. We should not use our fight against terrorism loosely, and we should not compare the bill before us as the same thing in fighting the war against terrorism.

I just hope we recognize that we can defeat this bill before us. We can vote on the motion to recommit. We can make certain that we are concerned about the rights of kids, that they do not have to be involved in working in foreign governments and labor and be abused; protecting the environment; make certain we protect the constitutional rights of the Members of the House.

We can do all of those things. We can be patriots. We can be Americans and we can do these things.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, this debate is about trade and not about terrorism. It is not about American leadership. America must lead in trade in the right direction. Trade must expand, and it has to be shaped as that happens, and that is what we have been doing these last years. We have voted on these bills. Do not pretend they do not exist.

The Thomas bill would turn back the clock in key areas including those relating to labor.

□ 1530

I am an internationalist. This is not about isolationism. It is about how we shape our role as internationalists. It is not about protectionism. We are beyond that. Trade is so important that the role of Congress has to change. We cannot be rubber stamps or silent partners or consultants. We must be participants.

The Thomas bill falls so far short in that way. Vote, vote for the motion to recommit; and if that fails, vote against Thomas; and then if Thomas goes down and the recommittal motion goes down, we will come back and do it the right way.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to the minority leader.

Mr. GEPHARDT. Mr. Speaker, as I said previously, I want to commend the gentleman from New York (Mr. RANGEL) and the gentleman from California (Mr. MATSUI) and the gentleman from Michigan (Mr. LEVIN) for their hard work on this alternative. They have worked endlessly to put together what they believe to be the right trade policy for our country.

I agree with it entirely. I think it is the kind of vision that we need in trade. I think it is the kind of vision that we will ultimately come to in trade, and I urge Members to seriously consider voting for it.

The only way we will get these changes made in trade policy is if we have the votes to pass this kind of a motion. So I strongly recommend it to Members.

I honor their hard work and scholarship, their seriousness of purpose. It is a remarkable job that they have done, and I urge Members to vote for what I believe to be the right vision on trade for America now and in the future.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, most others would oppose this if they had told us what was in it during their 5 minutes; but that usually is my job, to tell people what is in the motion to recommit.

First of all, that is the motion to recommit, and I do have to compliment the gentleman from New York (Mr. RANGEL) in which he utilized patriotism by condemning others using patriotism to urge that my colleagues support his motion to recommit. Nicely done.

What the minority leader said was that this position contains all the right issues.

The gentleman from Michigan (Mr. LEVIN), who is the author of this, says that it moves in the right direction; and in fact, the key phrase from the gentleman from Michigan is it says it is how we should shape our world.

I want my colleagues to think about a document which the minority asks us to vote for, which more than 75 pages consists of mandates, of requirements that others must meet. To give my colleagues the flavor of the 75 pages of mandates, we only have to get to page 6 when it says any agreement that comes back must maintain bona fide food aid programs. Now, what is a bona fide food aid program? Whatever it is, the agreement between whoever country works with us must maintain a bona fide food aid program.

My colleagues can imagine 75 pages of maintaining, to preserve, to promote, to eliminate, to achieve, to explore, to develop, to identify, to clarify and on and on, that an agreement has to meet these because they are mandates, and if they do not meet them, guess what? There is a structure that will judge whether or not those mandates have been met.

First of all, to get an agreement through Congress in this package, requires that my colleagues vote not once, remember, normally, this is called Fast Track, that we do not vote once, that we do not have to vote twice, but we have to vote three times; and every time we have to achieve a majority.

On those 75 pages of mandates, this is the structure to determine whether or not the agreement has met the particular mandate. It takes nine Members of the House and nine Members of the Senate, and it constructs them so that the nine and the nine just happen to be nine Democrats and nine Republicans, and if they hold their party line, if the AFL-CIO is able to hold the party line, any agreement goes down because to get an agreement not only requires us to go through those three separate votes, but we then have to on any one of these 75 pages of mandates, have to get a majority of that structure to go forward.

I know that sometimes bringing countries together over the negotiating table is difficult to do; and that is why, in committee, when this was offered as a substitute, with 17 Democrats on the committee, the leadership of the Committee on Ways and Means, laying this in front of their Democratic colleagues, did not get 17 vote, did not get 16 votes, did not get 14 vote, did not get 13 votes. They were able to muster 12 of the 17 in support of this; and once my colleagues know what is inside of it, we begin to wonder about the 12 that voted for it.

That is why they would not spend one minute of their time telling us what is in this document; but if my colleagues examine it, what it is is a guarantee that unless and until one or two people's vision over there of how we shape our world is in each and every document, we will not have a trade agreement. That is not the way a trade agreement arrangement should work.

I want to compliment the Democrats that voted against it in Ways and Means. I want to compliment the Democrats who will vote down the motion to recommit, and I want to compliment all of those who will support Trade Promotion Authority for the President.

The SPEAKER pro tempore. 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.

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 162, noes 267, not voting 5, as follows:

[Roll No. 480]

AYES—162

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boswell
Boucher
Brown (FL)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Doggett
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Nadler
Napolitano
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Solis
Spratt
Stark
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOES—267

Aderholt
Akin
Armey
Baca
Bachus
Baker
Baldwin
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes

Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (FL)

NOT VOTING—5

Hostettler
Meek (FL)
Quinn
Roukema
Young (AK)

□ 1559

Mr. GREENWOOD, Mr. WALSH, Mrs. CUBIN, Messrs. BROWN of South Carolina, COX, STRICKLAND, HERGER, BORSKI, MURTHA, Ms. VELÁZQUEZ, Messrs. DOYLE, MASCARA, BRADY of Pennsylvania, RAHALL, HOLDEN, and KANJORSKI changed their vote from ''aye'' to ''no.''

Mr. MEEHAN changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

□ 1600

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Notwithstanding the Chair's earlier announcement, the time for electronic vote on passage, if ordered, will be 15 minutes.

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 214, not voting 5, as follows:

[Roll No. 481]

AYES—215

Akin
Armey
Bachus
Baker
Ballenger
Barr
Barton
Bass
Bentsen
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Carson (OK)
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Rehberg
Reynolds
Riley
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOES—214

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Duncan
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Foley
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Goode
Gordon
Graham
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Putnam
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers (KY)
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Hostettler
Meek (FL)
Quinn
Roukema
Young (AK)

□ 1637

Mr. DEMINT changed his vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2883, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Mr. GOSS. Mr. Speaker, I ask unanimous consent on the part of the House to have until midnight, December 6, 2001, to file a conference report on the bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

There was no objection.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

Mr. LINDER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read when called up; and that H. Res. 307 be laid on the table.

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

There was no objection.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2944, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 2944, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

Mr. KNOLLENBERG. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report accompanying the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the previous order of the House, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 5, 2001, at page H8914.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

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

I am pleased to bring to the House the conference report for H.R. 2944, the fiscal year 2002, the District of Columbia Appropriations Act. When I took the helm of the Subcommittee on the District of Columbia of the Committee on Appropriations in January, I said I wanted to be a partner with the District of Columbia as we jointly developed an agenda that promotes the continued renaissance of the city. Our subcommittee held several hearings covering a broad range of issues that I believe were tremendous assets as we crafted the bill. Our focus then, as it is now, was on economic development, education, and public safety, and they remain my focus, as they will in the future.

□ 1645

I believe this conference agreement reflects this commitment and the hard work of each and every member of the Subcommittee on the District of Columbia of the Committee on Appropriations. Their collective and individual dedication and expertise is to be commended.

As I wrap up the first year as chairman of the subcommittee, I want to thank two of my colleagues in particular. First, I wish to thank the gentleman from Pennsylvania (Mr. FATTAH) for all the great work he has done as a member of the committee from Pennsylvania.

We have worked, I think, very well in this process. There have been open channels of communication. His advice and counsel have been very valuable to me, and I think truly we have a better bill because of him.

I also want to thank the District of Columbia and the gentlewoman from the District of Columbia (Ms. NORTON). She is a tireless advocate for the city, and the District's residents are lucky to have her. She has been very open and candid with me, and has been a very valuable source of information.

Before I move the bill, I would like to thank the many staff members: Migo Miconi and Mary Porter of the subcommittee staff, and also Jeff Onizuk and Candra Symonds from my own staff; Tom Forhan from the minority staff has been a great help, and William Miles of Mr. FATTAH'S staff, as well. There have been many long days and long nights, and their dedication and professionalism has been something worthy of a lot of praise.

I want to also salute Mary Porter, who has been staffing this bill for 40 years. Mary is behind me here somewhere.

I believe this is a fiscally responsible conference report, and I will not go into all the details; there are many. But I can tell the Members this: We were all, I believe, very pleased with what did develop here. It is a bipartisan effort, and one that myself and the gentleman from Pennsylvania (Mr. FATTAH) have worked to bring about.

I just want to emphasize that this legislation does eliminate approximately half of the general provisions contained in last year's legislation, and it does some things that simplify things, I believe, for us in the future.

Obviously, the events of 9–11 were a concern for all of us, and D.C., outside of New York City, was the most focused-upon city in the country because of the terrorist attacks.

Mr. Speaker, I include for the RECORD a chart relating to H.R. 2944, District of Columbia Appropriations Act, 2002:

H.R. 2944 - District of Columbia Appropriations Act, 2002

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
FEDERAL FUNDS						
Federal payment for Resident Tuition Support	17,000	17,000	17,000	17,000	17,000	
Capitol City Career Dev & Job Training Partnership			1,500		500	+500
Federal payment to Capitol Education Fund					500	+500
Federal payment to Metropolitan Kappa Youth Development Foundation, Inc					450	+450
Federal payment for World Bank/IMF meeting		15,918				
Fed payment to the Fire & Emergency Med Services Dept			500		500	+500
Federal payment to the Chief Medical Examiner			585		585	+585
Federal payment to the Youth Life Foundation			250		250	+250
Federal payment to Food and Friends			2,000		2,000	+2,000
Federal payment to the City Administrator			300		300	+300
Federal payment to Southeastern University			500		500	+500
Fed payment to the Voyager Universal Literacy System			1,000			
Federal payment to DCPS	500			2,750	2,500	+2,000
Fed payment to the Office of the Chief Tech Officer			500			
Federal Law Enforcement Mobile Interoperability project				1,400	1,400	+1,400
Federal payment for Emergency Planning and Security Costs in the District of Columbia			16,058	16,058	16,058	+16,058
Federal Payment to the Chief Financial Office of the District of Columbia	1,250		2,350	5,900	8,300	+7,050
(Supplemental funding)	750					-750
(By transfer, supplemental funding)	(250)					(-250)
Federal payment to the District of Columbia Corrections Trustee Operations	134,200	32,700	32,700	32,700	30,200	-104,000
Federal payment to the District of Columbia Courts	105,000	111,378	111,238	140,181	112,180	+7,180
Miscellaneous appropriations (P.L. 106-554)	400					-400
Crime victims fund (misc appropriations P.L. 106-554) 1/	18,000					-18,000
Federal payment for Family Court Act			23,316		24,016	+24,016
Defender Services in District of Columbia Courts	34,387	34,311	34,311	39,311	34,311	-76
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	112,527	147,300	147,300	147,300	147,300	+34,773
Children's National Medical Center	500		5,500	3,200	5,500	+5,000
St. Coletta of Greater Washington Expansion Project	1,000		1,000		2,000	+1,000
Federal payment to Faith and Politics Institute			50		50	+50
Federal payment to the Thurgood Marshall Academy Charter School				1,000	1,000	+1,000
Federal payment to the George Washington University Center for Excellence in Municipal Management				250	250	+250
Federal payment for Child and Family Services Computer Integration Plan				200		
Federal payment to the District of Columbia Court Appointed Special Advocates Unit				250	250	+250
Federal payment to the Child and Family Agency				500		
Federal Contribution for Enforcement of Law Banning Possession of Tobacco Products by Minors (Sec. 130)	100		100		100	
Federal payment for Commercial Revitalization program	1,500					-1,500
Federal payment for Metropolitan Police Department	100					-100
Contribution to Covenant House Washington	500					-500
Federal payment of Washington Interfaith Network	1,000					-1,000
Federal payment for Plan to Simplify Employee Compensation Systems	250					-250
Metrorail construction	25,000					-25,000
Federal payment for Brownfield remediation	3,450					-3,450
Presidential Inauguration	5,961					-5,961
Child Advocacy Center	500					-500
District of Columbia Special Olympics	250					-250
Total, Federal funds to the District of Columbia	464,125	358,607	398,058	408,000	408,000	-56,125
DISTRICT OF COLUMBIA FUNDS						
Operating Expenses						
District of Columbia Financial Responsibility and Management Assistance Authority	(3,140)					(-3,140)
Governmental direction and support	(195,771)	(284,559)	(285,359)	(307,117)	(286,138)	(+90,367)
(Supplemental funding)	(5,150)					(-5,150)
Economic development and regulation	(205,638)	(230,878)	(230,878)	(230,878)	(230,878)	(+25,240)
(Supplemental funding)	(1,685)					(-1,685)
Public safety and justice	(762,546)	(632,668)	(633,853)	(632,668)	(633,853)	(-128,693)
(Supplemental funding)	(8,871)					(-8,871)
Public education system	(998,918)	(1,106,165)	(1,106,165)	(1,108,915)	(1,108,665)	(+109,747)
(Supplemental funding)	(13,000)					(-13,000)
Human support services	(1,535,654)	(1,803,923)	(1,803,923)	(1,803,923)	(1,803,923)	(+268,269)
(Supplemental funding)	(28,000)					(-28,000)
Public works	(278,242)	(300,151)	(300,151)	(300,151)	(300,151)	(+21,909)
(Supplemental funding)	(131)					(-131)
Receivership Programs	(389,528)	(403,368)	(403,368)	(403,868)	(403,868)	(+14,340)
Workforce Investments		(42,896)	(42,896)	(42,896)	(42,896)	(+42,896)
(Supplemental funding)	(40,500)					(-40,500)
Reserve	(150,000)	(150,000)	(150,000)	(120,000)	(120,000)	(-30,000)
Reserve Relief				(30,000)	(30,000)	(+30,000)

H.R. 2944 - District of Columbia Appropriations Act, 2002 — continued

(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	House	Senate	Conference	Conference vs. enacted
Repayment of Loans and Interest	(243,238)	(247,902)	(247,902)	(247,902)	(247,902)	(+4,664)
Repayment of General Fund Recovery Debt	(39,300)	(39,300)	(39,300)	(39,300)	(39,300)	.....
Payment of Interest on Short-Term Borrowing	(1,140)	(500)	(500)	(500)	(500)	(-640)
Presidential Inauguration	(5,961)	.....	.....	.....	.....	(-5,961)
Certificates of Paticipation	(7,950)	.....	.....	.....	.....	(-7,950)
Emergency Planning and Security Costs	.....	.....	(16,058)	.....	(16,058)	(+16,058)
Security for meetings	.....	(15,918)	.....	.....	.....	.....
Wilson Building	(8,409)	(8,859)	(8,859)	(8,859)	(8,859)	(+450)
(Supplemental funding)	(7,100)	.....	.....	.....	.....	(-7,100)
Optical and Dental Insurance Payments	(2,675)	.....	.....	.....	.....	(-2,675)
Management Supervisory Services	(13,200)	.....	.....	.....	.....	(-13,200)
Emergency Reserve Fund Transfer	(61,406)	(33,254)	(33,254)	(33,254)	(33,254)	(-28,152)
Operational Improvements Savings (including Managed Competition)	(-10,000)	.....	.....	.....	.....	(+10,000)
Management Reform Savings	(-37,000)	.....	.....	.....	.....	(+37,000)
Cafeteria Plan Savings	(-5,000)	.....	.....	.....	.....	(+5,000)
Non-Department Agency	.....	(5,799)	(5,799)	(5,799)	(5,799)	(+5,799)
Total, operating expenses, general fund	(4,955,153)	(5,306,140)	(5,308,265)	(5,318,030)	(5,312,044)	(+356,891)
Enterprise Funds						
Water and Sewer Authority	(275,705)	(244,978)	(244,978)	(244,978)	(244,978)	(-30,727)
Washington Aqueduct	.....	(46,510)	(46,510)	(46,510)	(46,510)	(+46,510)
(Supplemental funding)	(2,151)	.....	.....	.....	.....	(-2,151)
Stormwater Permit Compliance	.....	(3,100)	(3,100)	(3,100)	(3,100)	(+3,100)
Lottery and Charitable Games Control Board	(223,200)	(229,688)	(229,688)	(229,688)	(229,688)	(+6,488)
Sports and Entertainment Commission	(10,968)	(9,127)	(9,127)	(9,127)	(9,627)	(-1,341)
Public Benefit Corporation	(78,235)	.....	.....	.....	.....	(-78,235)
D.C. Retirement Board	(11,414)	(13,388)	(13,388)	(13,388)	(13,388)	(+1,974)
Correctional Industries Fund	(1,808)	.....	.....	.....	.....	(-1,808)
Washington Convention Center	(52,726)	(57,278)	(57,278)	(57,278)	(57,278)	(+4,552)
Housing Finance Agency	.....	(4,711)	(4,711)	(4,711)	(4,711)	(+4,711)
National Capital Revitalization Corporation	.....	(2,673)	(2,673)	(2,673)	(2,673)	(+2,673)
Total, Enterprise Funds	(656,207)	(611,453)	(611,453)	(611,453)	(611,953)	(-44,254)
Total, operating expenses	(5,611,360)	(5,917,593)	(5,919,718)	(5,927,483)	(5,923,997)	(+312,637)
Capital Outlay						
General fund 2/	(1,022,074)	(1,074,605)	(1,074,605)	(1,074,604)	(1,074,605)	(+52,531)
Water and Sewer Fund	(140,725)	(152,114)	(152,114)	(152,114)	(152,114)	(+11,389)
Total, Capital Outlay	(1,162,799)	(1,226,719)	(1,226,719)	(1,226,718)	(1,226,719)	(+63,920)
Total, District of Columbia funds	(6,774,159)	(7,144,312)	(7,146,437)	(7,154,201)	(7,150,716)	(+376,557)
Total:						
Federal Funds to the District of Columbia	464,125	358,607	398,058	408,000	408,000	-56,125
District of Columbia funds	(6,774,159)	(7,144,312)	(7,146,437)	(7,154,201)	(7,150,716)	(+376,557)

1/ Section 403 P.L. 106-554, 114 Stat. 2763a-188

2/ Rounded

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

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

Mr. Speaker, I thank the chairman, who has led us to this moment. We have a much-improved product from previous years, and it is because of the leadership that the gentleman from Michigan has put forward in this effort.

I want to also thank a number of the people on the staff on our side: Tom Forhan and William Miles on my personal staff. I would also like to thank Migo Miconi and Mary Porter on the chairman's staff, and also Jeff Onizuk on the personal staff of the gentleman from Michigan (Chairman KNOLLENBERG), who have all played a very important role in this bill.

This is not a perfect bill, and there are things in it that we would like to improve even further. But I would have to say that we have done a very good job in terms of addressing many of the concerns, and I note that the mayor of the city has had very kind things to say about the work of the conference committee.

I would like to also thank his staff, and in particular, Sabrina McNeil, who worked very hard to make sure that we understood the needs of the District.

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

Mr. KNOLLENBERG. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the longest-serving member of this subcommittee.

Mr. CUNNINGHAM. Mr. Speaker, I volunteered to stay on this committee because I think, of all the areas in which Congress can improve, it is in Washington, D.C., our Nation's Capital.

We have made great strides, and Mr. Speaker, the chairmen have made great strides. But for the first time since I have been on the committee, I am not going to vote for this bill with some good things in it.

Mr. Speaker, I speak, I think, from authority. I was chairman on authorization for the Subcommittee on Labor, Health and Human Services and Education, and forwarded the legislation to President Clinton on IDEA, the Individuals With Disabilities Education Act.

For 5 years I worked to take money out of lawyers' hands and pockets and shift it to children. We were able to save over $10 million a year, and instead of going to lawyers, it went to hire special education teachers. It set forth new programs for special education. It worked.

In one setting, the chairman totally wiped out 5 years of everything that I have worked for. Am I upset? Yes, especially since it was staff-driven. Who is supposed to control this Chamber, the staff or the Members?

Mr. Speaker, I want to say one lawyer in D.C. earned $1.4 million suing the city of D.C. over special education; a firm, $5 million. Those are just two individuals.

I want to say I have spent my life working for children and getting the money down. I have been through no less than 20 hearings on this particular issue, from when I was in the subcommittee on authorization, since I listened to the gentleman from Indiana (Mr. BURTON) who ran hearings this year, to the gentleman from Ohio (Mr. BOEHNER), to the rest of it. I cannot tell the Members my contempt on the outcome of this issue.

I am not going to speak for the full 5 minutes, since there are a lot of people trying to catch planes. But I state again my opposition to this bill.

Mr. Speaker, I rise in opposition to the conference report on the floor today. This will be the first District of Columbia Appropriations Act I will vote against since I came to serve on the Committee.

I want to be clear, it is an honor to serve on the Appropriations Committee and especially the District of Columbia Subcommittee, where I am currently the longest active serving member. In addition, I commend Chairman KNOLLENBERG for his leadership on this committee. In his first year as a Cardinal he has proven up to the difficult task of shaping an appropriations bill. For the last few years, I have resided here in the District and have seen first hand the problems that citizens here face in dealing with their own city government. I am pleased to have had the honor to work on this committee during what is truly the ''rebirth'' of the District's financial condition.

When I came to the committee, the District was in financial ruin. Congress left no choice but to create the D.C. Control Board to oversee the city's budget to help bring order to the budget of the District of Columbia. I am pleased that the budget before us today was the sole responsibility of the elected officials of the District. Working together Congress and city officials have created a good budget that balances the needs of the people of the District with the financial constraints facing all governmental bodies.

This $5.3 billion conference agreement provides new money for education and public safety—including public and charter schools, college tuition aid, a new court charged to protect abused children, emergency preparedness and ex-offender supervision. It includes a provision that is critical to public safety in the District, $500,000 for the repair of the D.C. Fireboat, the John Glenn. This historic fireboat has served this city well for many years but is in need of repair. In total, this bill will help the people of the District in many ways.

SPEC ED ATTYS FEES

Yet, with all that is in this agreement, I can not, in good conscience, vote for this bill. Since 1998, the D.C. Appropriations Act has carried a provision limiting the amount of money D.C. Public Schools (DCPS) will pay to special education attorneys. This provision restricted the amount of money lawyers could be reimbursed for the representation of children under IDEA. In this bill today, we will vote to remove this restriction.

Let me state for the record, I believe a yes vote will reward trial attorneys with millions of additional dollars at the expense of the special education needs and programs for the children of the District of Columbia. Moreover, we were informed by the District that many of these fees were excessive. Before the caps, an attorney made $1.4 million in fees in 1 year suing the District of Columbia schools. Another law firm billed over $5 million in a single year to the District of Columbia schools. Submission of a variety of questionable expenses, including flowers, ski trips, and even a trip to New Orleans ostensibly made to scout out private schools far from the District that might be able to accommodate special needs students.

The reason we put reasonable caps on these attorneys fees is so the money will go into education. This cap was, and continues to be reasonable. An average citizen working 40 hour weeks would earn $300,000 a year, a rate which is entirely adequate, even in the District of Columbia. Our goal and our achievement since 1998 was to help the District of Columbia schools and children. In this effort we have been eminently successful.

Since we instituted the cap the city has spent about $3.5 million per year in attorney's fees. This has resulted in savings of $10 million a year to continue the good works of the District's Special Education services. The DCPS has used this money to hire new special education attorneys and create special education programs to help the children of the district.

Specifically DCPS has: Created almost 1,000 new placements within the public schools for special education students; arranged for the funding of 1,614 additional placements through the Weighted Student Formula for the 2001–2002 school year; reduced the number of children awaiting initial assessments from over 2,000 to less than 200; reduced the backlog of hearing requests from 900 to 20; facilitated understanding and communication through the development of several concise well-written documents detailing the special education process and published proposed revisions in municipal regulation in support of the special education process; held two citywide Child Find fairs, which are state level functions that had not been conducted for nearly five years. These fairs provide for developmental screening in order to identify children who have specific learning disorders; held training for new teachers and veteran teachers to assist them in the use of the automated SETS database that is the backbone of the delivery of services to children with special needs; participated in a year-long Continuous Improvement Monitoring Process with the Department of Education's Office of Special Education Programs with the support of 14 schools; implemented the proven effective Fast Forward and Failure Free Reading programs to promote reading among children who are at risk of being non-readers; and made monthly training available for new teachers to increase their understanding of the special education process and held system-wide training to expand the awareness of special education.

DCPS has done all this with money that would have gone to trial lawyers instead of these good programs and opportunities. I would challenge anyone opposed to this cap to explain to me how cutting these programs will help special education children; how spending millions more for attorneys will help our teachers educate our children.

Opponents to this cap contend that this provision keeps children from being represented. However, no one has ever shown evidence that any child in D.C. is not receiving adequate, quality representation. Furthermore, I

would question the values of any trial lawyer who is unwilling to represent a child in a special education proceeding because they would only be paid $300,000 a year. That is the real issue. The lawyers are here telling us that if we don't allow them unlimited expenses and fees, paid for directly from the District's budget they will not continue to represent the children of the district. This callous position is beyond my comprehension, and I cannot in good conscience support a bill which endorses it.

That these trial lawyers could look into the face of parents of a special needs child and turn them away from service because the lawyer can not take more than $150 an hour from the District Public School budget is appalling. That is the position we vote for today my friends. That is the position taken by the conference. The only people who were hurt by the cap were the trial lawyers who charged millions to the school district. The only people helped are the children, the schoolteachers, the principals, the Superintendent, the parents and ultimately the people of the District of Columbia.

Because we will not protect those teachers and children from the trial lawyers, I can not support this bill. Next year, we will revisit the issue and I hope, no I pray, that we have not irreparably harmed the special education children and programs in the District of Columbia Public Schools.

Mr. FATTAH. Mr. Speaker, I yield 5 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me. I would like to thank those who have contributed to the bill.

I thank the chairman of the full committee, the gentleman from Florida (Mr. YOUNG) for his great patience and efforts every single year to get my bill through here. He has been extraordinary in understanding that this is a city we are working with.

I thank our ranking member, the gentleman from Wisconsin (Mr. OBEY), who not only does his appropriation work to a fare-thee-well, but never forgets to have respect for self-government and the right of D.C. residents to vote.

I want to especially thank this year's chairman, the gentleman from Michigan (Mr. KNOLLENBERG), for the wonderfully cooperative and collegial spirit he has given to our work; his strong interest in the city; the way he has immersed himself in the issues of the city and in the facts and programs of the city.

I am particularly grateful to the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), who is a member known for his mastery of complex urban issues, especially finances and schools. We felt particularly lucky to have the gentleman from Pennsylvania (Mr. FATTAH) as the ranking member, inasmuch as he led his own city, Philadelphia, through precisely the kind of recovery we have had to go through. He was an architect of the control board there in the reconstruction of his own city, Philadelphia. He has an instinctive and encyclopedic understanding of cities in general, and of the District in particular. We feel very lucky to have him here.

Before I proceed, if I could have Members' indulgence for my remarks on this budget, I feel compelled to put on the RECORD what we are going through, and to indicate the great pain this House has put my city through this year and puts us through every year.

For those here for the first time, I always warn them they may feel like they are going through an out-of-body experience. Many have come out of State legislature and now somebody is telling them to look at the budget of what amounts to a State, somebody else's budget; to ask them to vote on a local budget. It is beneath them, it really is. I am going to ask Members to vote for it and try to understand that that is what the Congress makes us do.

But I want to tell this House that it is almost Christmas, and the District of Columbia has not been able to spend a single cent of its budget because this House has just gotten around to spending its money. I wonder how many would be left standing if their State, and this is the functional equivalent of a State, could not spend any of its money for 3 months into the budget year? I ask Members to put themselves, for a change, into the position of the city I represent.

With all of the plaudits I want to offer today, I want to take the time, because I have a remedy for this and it is important for me to put this on the RECORD. It happens year after year. This is just the worst of it, because it is Christmas. On October 1 we should have had a budget, and it should have been before then. We passed the budget in June.

I have a way to correct this, Mr. Chairman. It is a budget autonomy bill that would still let this House put all their attachments on it, do all the things to the District that they will not let anybody do to their districts; but at least they would say, when the District passes its budget, as much of it as they pass, that they can now go ahead and spend their own money.

These people cannot even forecast. They make mistakes all the time because their budget has to be done 18 months ahead of everybody else's budget. D.C. is terribly handicapped this year because there has been a war, and so other cities, our neighboring cities, Maryland and Virginia, are now in the process of taking the surplus; and we have a bigger surplus than Maryland or Virginia, and using it to shore up the deficits that have been created by the recession, problems that have come up unexpectedly because of September 11.

Do Members know what happened to the surplus of the District of Columbia? It falls to the bottom line because the District of Columbia is treated like a Federal agency. We let it fall to the bottom of the line of a Federal agency because it goes back into the Federal Treasury.

There is no reason not to let people who have been prudent in using their own money, saving their money, use their money in time of emergency. That is the demeaning position in which Members put the city that I happen to represent. Members must free us from this problem. Let us take care of ourselves by using our own money.

Mr. Speaker, I have a bill for budget autonomy which still lets Members put their own bills in and change the budget of the District of Columbia, but it would let us spend our own money when our own budget is passed. I have a budget autonomy bill, and I am going to beg this House to next year pass that bill.

I want to say to the gentlewoman from Maryland (Mrs. MORELLA), the Republican co-chair of my committee, how much I appreciate the principal things she has done in cosponsoring that bill with me.

Mr. Speaker, to move on to the budget itself, this is such a significant budget for the District of Columbia. It is the first budget on its own without a control board. Yet, in very many ways, it is the most successful in many years. Less contentious. We have had disputes here and there. We have all found ways to settle them like ladies and gentlemen.

I want to focus on just three issues, among the dozens in this bill:

First is the way in which the committee has allowed the budget numbers put forward by the District of Columbia to be the budget for the District of Columbia. I want to thank this Congress for the funds for a new Family Court Division, and I want to have a brief discussion on breakthroughs in and unacceptable home rule losses.

First, let me thank the committee for making sure that the District's own budget numbers became the budget numbers in this bill. The Congress has no expertise to deal with the budget priorities in anybody else's bill. There were some concerns at first about how the District and the mayor had agreed to certain kinds of attachments to the budget.

When all was said and done, people finally understood: It is not for us to say. If the Mayor and the City Council have agreed, let the Mayor and the City Council do their own budget, as long as it is balanced.

Second, let me go to the family court. There is $24 million in extra money in this bill for the first revision of D.C.'s Family Court Division in 30 years. I am the coauthor of the authorizing bill, with the gentleman from Texas (Mr. DELAY).

I want to thank him for working with me on the bill. He and I had many disputes, but we simply worked them out. But I think he deserves great praise today, because that additional $24 million would not be in this bill if the gentleman from Texas (Mr. DELAY) had not gotten the extra money to put in this bill.

I want to thank him both for his coauthorship of the bill and for working to get the money in the bill. That, of

course, is important, because we have read about the great problems we have with foster care; typical of foster care problems around the country, but we know about them in the District of Columbia.

□ 1700

The District, of course, appreciates the $16 million for emergency preparedness in this bill. That is an important start. But for all the help those funds bring, I do want to remind this House that you have understood that you should give extra money to the Capitol Police because they are first responders of a kind. But I want to remind the Congress that you really have only one first responder. You have only one fire department and you have one big city police department. That is the District of Columbia. We have very little money in the House bill.

The District is vastly underprepared for any emergency in the District of Columbia that involves the Federal presence. But I want to remind you that your first responder for this House, for this Capitol, for the White House, and for the entire Federal presence is the District of Columbia first responders. And while I appreciate the start we have with the $16 million, this is money that is urgently needed if you are serious about emergency preparedness.

Finally, Mr. Speaker, I must speak about an important breakthrough and unacceptable attachments on this bill. This is a huge breakthrough in this bill with the commonsense decision of 41 Republicans to join Democrats in allowing the District to use its own funds for implementing its own domestic partnership bill. I want to thank my friends on both sides of the aisle for this expression of bipartisanship.

The limited and moderated legislation allows partners to sign on to the city's health plan of the partner, at the full expense of the partner, with no public expense. It is especially important to mention it this year because it is compassionate and necessary at a time when there are there are already 40 million people without health insurance, many being added as I speak, of course, because there are such a large number of people with AIDS and with infections climbing every day.

Having praised the House for that wonderful breakthrough, let me speak about two unacceptable losses.

I appreciate that we have eliminated some of the busy work for police on the needle exchange private program in the District. But barring the city from spending its own money to keep AIDS from being transmitted throughout the community, especially where it is growing most, among women and children, is the functional equivalent of a death sentence, and this House ought to understand it. It adds to the incursion into our business the notion of a life-and-death issue, and it shows that the House is refusing to value the human life involved, even though every reputable scientific authority has advised and 115 localities have indeed allowed these programs.

I just put the House on notice, I will simply not give up until we are allowed to use our own money to save the lives of our own residents the way other Americans are.

Finally, we have done something in this bill that we should be especially ashamed of. We have said, look, D.C., you can spend your own money on lobbying anything you want to lobby on. You want to lobby on some more money for this or some more money for that, go ahead. But you do not spend one red dime to lobby for your own rights. Not a dime to lobby for statehood and not a dime to lobby for voting rights.

My friend, this Congress has just failed, at least this House has, the test of credibility of all that rhetoric of the past few months on the fight for freedom; and a way of life central to our way of life, surely central to our freedom, is full voting representation in the Congress for all taxpaying Americans and full democracy and equal treatment as that of other States. Be on notice of that one, too. We will not rest until the ban on spending our own money raised from our own taxpayers to pursue our own rights is lifted.

With that I want to thank both the chairman and the ranking member for their long and great patience until we finally arrived here to the best bill in many years.

Mr. KNOLLENBERG. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. TOM DAVIS) a member of the authorizing committee.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in support of the conference report. Let me just say I want to thank the gentleman from Michigan (Mr. KNOLLENBERG), the chairman of the full committee. I think he has done a very good job in shepherding this through the House and through a long conference.

For the record, it is sad that the city has had to wait until December to get their appropriations. It should not have to work that way. This body passed the bill September 25. We were ready to go to conference the next day. It was the Senate, the other body, that held up this legislation and has kept this long-protracted discourse before we could reach agreement on the conference report.

I would also remind my colleagues that just about 3 or 4 years ago, we passed a D.C. Revitalization Act. This was part of the Balanced Budget Act. In that, as we were putting that together, we offered the city the opportunity to do away with the annual appropriations for the city. In place of that, we replaced the city's responsibilities for felony prisoners, for the court system, and took care of what had been longstanding obligations that they owed in other areas, over a billion dollars in some cases; and in place of that, to do away with the annual appropriations.

In taking care of the fastest growing part of the budget and basically moving those responsibilities to the Federal Government, we felt you would not need the annual appropriations. But the city understandably was reluctant to part with that because they knew there would come a time that they would need additional Federal dollars and did not want to do the annual appropriations.

The gentlewoman from the District of Columbias' (Ms. NORTON) object here is a noble cause, and we ought to look very closely at how we can do that. Every other city in America, when they pass their budget it goes right into operation, and if the Congress has a problem with it we can step forward and say we have a problem with it. But under this protracted procedure, we end up ironically hurting a city that has a limited tax base as it is.

This legislation is pretty good. It fully funds the D.C. Scholarship Act. This allows city residents to go to State universities at in-State tuition costs, and get the same kind of deal that people in other States get. I think this is very important for the city.

The gentlewoman from the District of Columbia (Ms. NORTON) said the District of Columbia Juvenile Court revisions are very, very important. We have worked long and hard together to bring that. I think, by and large, this goes further in respecting District of Columbia home rule than many other appropriations bills that have come before this body.

If we want democracy in this city to succeed, however, we should not continue to second-guess the mayor and the council. I disagree with some of the things that the council has done, as I do with things my home city council and county board of supervisors do. But if we want democracy to flourish, we have to give them the responsibility; and that means not constantly looking over their back. I urge adoption of this.

Mr. FATTAH. Mr. Speaker, I yield myself 30 seconds.

I thank the gentleman for his comments. The issue of budget autonomy is one that I support, and I am the cosponsor of the bill, but it is also a matter of having the city be able to reach the revenues that are here. The city is prohibited from taxing sales that happen on Federal property. It cannot go after suburbanites who earn wages in the city, because we prohibit the city from, as other cities, mine and others are able, to attach those wage earners.

So if we are going to talk about the fact that the city has a limited tax base, we need to understand why it is limited. It is limited because of our own actions.

Mr. KNOLLENBERG. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Maryland (Mrs. MORELLA), who is the chairman of the authorizing committee.

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

Mr. Speaker, I want to preface my comments by thanking the chairman, the gentleman from Michigan (Mr. KNOLLENBERG) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) and the D.C. appropriations subcommittee staff, as well as Senator MARY LANDRIEU and the Senate staff who worked tirelessly and in a very open manner in developing this year's appropriations bill for the District of Columbia.

This budget marks a turning point for the District. It is the first budget approved by Congress since the District of Columbia Financial Responsibility and Management Assistance Authority, known as the Control Board, ended its tenure. And it is truly a home rule budget as it protects many of the spending priorities of Mayor Williams and the city council.

The appropriators have done an admirable job in providing responsible oversight while generally resisting the urge to micromanage the city government.

Next year we hope to take this a step further as the gentlewoman from the District of Columbia (Ms. NORTON) and I will continue to push our bill to return a local autonomy budget all to the city. The District of Columbia should not have to wait until December to have its budget passed by Congress. That bill would also safeguard the powers of the chief financial office, and I want to thank the gentleman from Michigan (Mr. KNOLLENBERG) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) for including in this conference report a temporary extension of the CFO's powers until July 1. That would give us all the more time to ensure that the CFO does not become a paper tiger.

The bill provides $17 million for the very successful District of Columbia tuition access program which gives District of Columbia students the opportunity to get a high-quality university education at virtually any public university in the United States. I am also happy that the legislation allows for the first time the District of Columbia to use its own money on domestic partners for benefits on city government employees.

The bill reserves more than $24 million to reform the city's Family Court and Child and Family Services Agency, an effort that many of us who care about the city's children have worked on long and hard.

Let me point out a few other highlights: $16 million to improve emergency preparedness; $2.5 million for the innovative literacy programs in the District of Columbia schools; $2 million for Foods and Friends charity; $2 million for the expansion of St. Coletta's, which does such wonderful work training mentally retarded and disabled youngsters and adults; $500,000 to promote high-tech education at the city's Southeastern University; and 300,000 toward the newly constituted Criminal Justice Coordinated Council, which will foster cooperation among the various Federal and local criminal justice agencies that operate in the district.

Finally, the appropriations bill greatly reduces the amount of money the District government must hold in reserve from $120 million in fiscal year 2002 to $70 million in fiscal year 2003. This is a great leap forward because it will allow the city to use more of its money for providing services to its citizens.

Overall, this is a good appropriations bill. The gentleman from Michigan (Mr. KNOLLENBERG), when he took the reins, said he wanted to come up with as clean a bill as possible. He has come very close to that. He made clear that he wanted to produce a clean budget, devoid of the many troublesome riders that have so disturbed city residents in the past. He and the committee have accomplished that to a remarkable degree, and I think this is a budget bill we can all be proud of. I urge a favorable vote.

Mr. FATTAH. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I want to thank Chairman KNOLLENBERG and Ranking Member FATTAH for their hard work on this bill, they have given us the best bill in years. However, while the bill is greatly improved I cannot in good conscience support the gratuitous and mean spirited restrictions in continues to impose on taxpayers of our nation's capitol.

Over 94% of the budget that we're voting on today is City tax revenue locally raised. It's one thing for Members to decry the use of their constituents' tax dollars for purposes they find distasteful, but to subject local DC taxpayers to the politics of far flung districts is simply disgraceful.

What's worse is that the people who we are pushing around in this bill, don't have a vote in this House and under this bill they cannot use even their own locally raised taxes to promote their right to representation in this House.

I am particularly concerned about the rider forbidding the use of local funds for needle exchanges. Washington has the highest rate of HIV/AIDS in the nation. Approximately one-third of reported AIDS cases occurred among injection drug users, their sexual partners and children.

Former Surgeon General, C. Everett Koop, former Secretary of Health and Human Services, Donna Shalala, the CDC, and the AMA are among the individuals and organizations that have endorsed needle exchange as an effective strategy to fight the spread of HIV/AIDS.

Needle exchanges exist all over this country and nobody is suggesting that we alter federal law to forbid them. We are attacking one city's—our Capital city's—efforts to reduce the spread of AIDS and leaving cities in the rest of the country to do what they think is right and effective in fighting that health epidemic.

I cannot support the continuation of this policy, in spite of the progress we have made in the rest of the bill.

I again thank the Chairman and Ranking Member for their hard work but I am voting no on this conference report.

Mr. FATTAH. Mr. Speaker, again I want to thank all who have been involved, but mainly the chairman of the subcommittee.

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

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

Mr. Speaker, I will close with a very quick comment. This conference report is a good bipartisan bill that reflects all the priorities that the ranking member and I worked together to make sure that were in the bill. It fully funds every penny of the city's budget. It ensures that all Federal obligations are met.

I would just say that, having been the chairman of this committee, it has been a great experience particularly in terms of the city. The response I have gotten from the folks that run this city, the leadership, the residents, they have all been very kind to me in helping me develop this legislation and helping us bring about what I believe is a good bill.

Mr. WELDON of Florida. Mr. Speaker, the bill before us includes a $2 million earmark for an organization whose Executive Director, according to the attached Washington Post article, was sentenced in 1995 for taking over $4,000 from the Jewish Community Center of Greater Washington. He was given a suspended five year prison sentence and ordered to perform several hundred hours of community service. He now draws an annual salary of $183,000 from Food and Friends, an organization that is supposed to be spending its money providing meals to those suffering from HIV/AIDS.

I am very concerned about the $2 million earmark of taxpayer money. This special $2 million carve out is for this one organization, and is not subject to competition. No other groups, including groups who may offer much better services or who may be much more efficient, were not allowed an opportunity to compete for these funds. There will also be little oversight and accountability of how this organization spends these funds.

This special $2 million earmark was not requested by the city of the District of Columbia and it was not in the President's budget request. There will be little if any oversight of how this $2 million will be spent. I believe this is an inappropriate earmark and am troubled by it's inclusion. I was deeply disappointed that the Senate, even after being made aware of these concerns, decided to go along with putting this in the final bill. I had hoped that they would have allowed a competition for these funds, rather than earmarking them for one organization.

I have also included a letter from a local AIDS advocacy organization in Washington that has expressed opposition to this special earmark of fund.

AIDS COALITION
TO UNLEASH POWER,
Washington, DC, November 12, 2001.

DISTRICT OF COLUMBIA APPROPRIATIONS CONFERENCE COMMITTEE,
U.S. Capitol,
Washington, DC.

DEAR CONFERENCE COMMITTEE MEMBERS: As a non-partisan HIV/AIDS advocacy organization, ACT UP Washington, DC has long

fought for greater accountability in federal HIV/AIDS spending. During the past several years, we have tracked mounting incidences of waste, fraud and abuse of hard fought for taxpayer dollars intended to combat HIV/AIDS, so that similar transgressions never occur again.

These efforts, thanks to the support of former Representative Dr. Tom Coburn, and Senators Charles Grassley and Max Baucus, have led to a commitment from the newly confirmed Inspector General for the Department of Health and Human Services to conduct audits of programs funded by the Ryan White CARE Act. Senator Sessions has added his leadership by calling for further federal auditing of HIV prevention programs in the pending Labor-HHS Appropriations Bill.

We hope you agree that accountability, and oversight at the local and federal levels are crucial components to insure that federal dollars to alleviate the suffering of HIV/AIDS patients are spent wisely and effectively. For this reason, we have deepening concerns over the $2 million included in the Chairman's mark to the DC Appropriations Bill, earmarked for a DC AIDS charity, Food and Friends.

Unlike other appropriations for DC area AIDS service organizations allocated through competitive grants, this earmark was never subject to the same, open process whereby spending priorities are determined through the input and needs of the community. This sets a terrible precedent, whereby dozens, if not hundreds of other local charities will now turn to Congress for their individual funding needs. Furthermore, as a direct payment, this $2 million is not subject to appropriate local and federal oversight authorities.

We therefore urge you to agree with the Senate DC Appropriations Bill, and delete the $2 million earmark from the final version.

This is not to, in any way, disparage the important services provided by Food and Friends, and the dedication of its volunteers. It is worth noting, however, that the current Executive Director of Food and Friends, Craig Shniderman, was involved in an embezzlement scandal with his previous employers at the Montgomery County Jewish Community Center. Enclosed you will find the Washington Post article from October 1995, in which Mr. Schniderman pleads guilty on a charge of misappropriation of funds.

It is, of course, encouraging to see ex-offenders like Mr. Shniderman turn their lives around. According to Food and Friends 990 tax forms for FY 2000 (available online at www.guidestar.com), he earned $183,000.

However, given the Executive Director's criminal record, the lack of oversight or accountability, and no public input into the allocation of these funds, it seems the wisest choice for Congress would be to delete the $2 million earmark in the final version of the DC Appropriations Bill.

Thank you for your consideration.

WAYNE TURNER.

Enclosure.

[From the Washington Post, Oct. 2, 1995]

EX-AGENCY HEAD SENTENCED IN THEFT FROM JEWISH CENTER

The former head of Montgomery County's Jewish Social Services Agency has been ordered to serve six months of home detention and 18 months of probation for taking nearly $4,000 from the Jewish Community Center of Greater Washington.

Former social services agency executive director Craig M. Schniderman was charged with taking items from the Rockville JCC gift shop from 1987 to 1993 and allowing the agency to be billed for phony consulting services.

The community center's former executive director, Lester I. Kaplan, and three other JCC officials were ousted last summer and accused of looting their agency of nearly $1 million as it was struggling to provide services for elderly and disabled members.

Kaplan pleaded guilty last month to seven counts, including theft and compiracy, and is scheduled to be sentenced today.

Shniderman, who officials said was not aware of the embezzlement scheme at the neighboring agency, pleaded guilty Wednesday to a single count of misappropriation by a fiduciary. He was given a suspended five-year prison term by Circuit Court Judge Ann S. Harrington and ordered to perform 200 hours of community service.

Ms. DELAURO. Mr. Speaker, I rise in support of this bill because it strengthens programs that serve the residents and workers of the District of Columbia. The residents of the District deserve to have control over their local government and this bill takes the first steps in returning authority to the residents and elected officials of the District.

This bill represents an improvement in the District of Columbia Appropriations bill over past years. It contains important resources for the city's health care system, brownfield remediation and local road repairs. It finally grants the District the autonomy to use its own funds to provide health benefits for domestic partners and improve access to health care services for District residents.

However, Mr. Speaker, I am concerned because this bill does not allow the District to use its own funds for one of its highest public health priorities—the needle exchange program—to reduce the spread of HIV and AIDS.

The needle exchange program has been endorsed by the Mayor of the District but for the past year the District has been prohibited from using local funds to implement it. Not only does this infringe on local autonomy, but it reduces access to a truly life-saving program.

There have been several government reviews and hundreds of scientific studies all demonstrating that needle exchange programs are effective in reducing HIV transmission and do not encourage drug use. The American Medical Association, the American Public Health Association, and other medical associations have all called for government support of needle exchange programs. My own hometown of New Haven has a needle exchange program that has proven to be highly successful in reducing the transmission of HIV/AIDS without increasing the number of drug users.

The District of Columbia has the highest rate of HIV/AIDS in the nation and it must be able to pursue an aggressive, targeted program. Currently, the District is the only city in the nation barred by federal law from investing its own locally raised tax dollars to support needle exchange programs.

To continue to impair the District's ability to carry out a responsible HIV prevention program flies in the face of sound public health policy. Local health departments must be free to determine which public health interventions will best address their local problems—including the District of Columbia. We cannot afford to turn our backs on something that can help us beat the AIDS epidemic.

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

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Without objection, the previous question is ordered on the conference report.

There was no objection.

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

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—ayes 302, noes 84, not voting 47, as follows:

[Roll No. 482]

YEAS—302

Abercrombie
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Cooksey
Cramer
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Frank
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Graham
Granger
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Harman
Hart
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCollum
McCrery
McDermott
McGovern
McIntyre
McKeon
McKinney
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Mink
Mollohan
Moran (VA)
Morella
Myrick
Nadler

Napolitano
Nethercutt
Ney
Northup
Nussle
Oberstar
Ortiz
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Vitter
Walden
Walsh
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—84

Akin
Barr
Bartlett
Berry
Blunt
Boozman
Brady (TX)
Bryant
Chabot
Coble
Combest
Cox
Crane
Culberson
Cunningham
Davis, Jo Ann
DeMint
Duncan
Forbes
Fossella
Frost
Gephardt
Goode
Goodlatte
Goss
Graves
Green (WI)
Hansen
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Israel
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kilpatrick
LaHood
Lucas (KY)
Manzullo
Miller, Jeff
Moore
Moran (KS)
Norwood
Obey
Olver
Otter
Paul
Peterson (MN)
Petri
Pickering
Platts
Ramstad
Roemer
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schaffer
Sensenbrenner
Shadegg
Shimkus
Shows
Shuster
Smith (NJ)
Stearns
Stenholm
Strickland
Stump
Tancredo
Taylor (MS)
Thornberry
Thune
Tiahrt
Turner
Upton
Wamp
Weldon (FL)
Weller
Whitfield

NOT VOTING—47

Ackerman
Armey
Baker
Barton
Bereuter
Bonior
Cannon
Costello
Coyne
Cubin
Deal
Emerson
Everett
Flake
Gallegly
Green (TX)
Hall (TX)
Hastings (WA)
Hostettler
Kelly
Kingston
Largent
Lofgren
McCarthy (MO)
McCarthy (NY)
McHugh
McInnis
McNulty
Meek (FL)
Miller, Gary
Murtha
Neal
Oxley
Pence
Pitts
Quinn
Riley
Rodriguez
Rogers (MI)
Roukema
Sessions
Smith (MI)
Smith (WA)
Taylor (NC)
Tiberi
Watkins (OK)
Young (AK)

□ 1737

Messrs. RYAN of Wisconsin, GOODLATTE, PICKERING, and TURNER changed their vote from ''yea'' to ''nay.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. McCARTHY of New York. Mr. Speaker, for personal reasons I was unable to cast my vote for the District of Columbia Appropriations Conference Report (H.R. 2944). Had I been present, I would have voted ''yea''.

Stated against:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 482, D.C. Conference Report FY '02 Approprations. I was unavoidably detained. Had I been present, I would have voted ''nay.''

GENERAL LEAVE

Mr. KNOLLENBERG. 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. 3005.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

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

Ms. DELAURO. Mr. Speaker, I rise to inquire about next week's schedule.

Mr. GOSS. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Florida.

Mr. GOSS. I thank the gentlewoman from Connecticut for yielding, and I am pleased to announce, Mr. Speaker, that the House has completed its legislative business for the week. The majority leader has announced the following legislative program for next week:

The House will next meet for legislative business on Tuesday, December 11, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, no recorded votes are expected before 6:30 p.m.

On Wednesday and the balance of the week, the House will consider H.R. 3129, the Customs Border Security Act of 2001, subject to a rule. We are also hopeful to be ready to consider the Education conference report, the Intelligence Authorization conference report, the Labor-HHS Appropriations Conference Report, and broadband legislation, all next week.

And I thank the gentlewoman for yielding.

Ms. DELAURO. Reclaiming my time, Mr. Speaker, if I might ask the gentleman one or two questions about the schedule for next week.

And I thank the gentle woman for yielding.

Do we anticipate that election reform legislation would be coming to the floor next week?

Mr. GOSS. If the gentlewoman will continue to yield.

Ms. DELAURO. I yield to the gentleman.

Mr. GOSS. I would be pleased to inform her that, as far as I know, the committee of jurisdiction, the Committee on the Judiciary, still has that under consideration and we have not been advised whether it in fact will be ready for next week.

Ms. DELAURO. So we do not believe it will be ready for next week.

Mr. GOSS. We do not know at this point.

Ms. DELAURO. Can we qualify it further?

Mr. GOSS. So far.

Ms. DELAURO. So far. Okay.

Do we anticipate that there will be votes on Friday or into the weekend?

Mr. GOSS. It is my understanding at this time, if the gentlewoman will continue to yield, that there is a strong possibility of votes on Friday and, if the business is not completed by Friday evening, that the intention is that we might well have to continue on into the weekend.

Ms. DELAURO. And if we continue on, is that an indication that we would try to finish before the end of the weekend, or stay until we are finished with business through some time next weekend or the following week?

Mr. GOSS. If the gentlewoman will continue to yield.

Ms. DELAURO. I do continue to yield.

Mr. GOSS. It would be my fondest wish to be able to give a date certain to the gentlewoman from Connecticut. The best I can say is that it is the intention to finish up by the end of next week. Whether or not that will be possible, we do not know. Clearly, when we start out with a good intention, it enhances the possibility that we will succeed at that good intention. But Members need to know we may in fact be working through next week, and then plan accordingly.

Ms. DELAURO. Through the weekend. And a final question. On which day do you expect the broadband legislation to come to the floor of the House?

Mr. GOSS. If the gentlewoman will continue to yield, I understand two committees of jurisdiction are still putting some final touches on that, and that that will be announced next week, early on in the week, as far as I know.

Ms. DELAURO. So we can anticipate that it would be at the beginning? We come back in on Tuesday night; so Wednesday, Thursday?

Mr. GOSS. It is unlikely that that legislation would show up before Wednesday.

Ms. DELAURO. Meaning that we will not be here before Wednesday. I thank the gentleman.

Mr. GOSS. I hope the gentlewoman will be here before Wednesday, because there will be votes Tuesday night at 6:30.

Ms. DELAURO. I understand. So it will not be Tuesday night.

ADJOURNMENT TO MONDAY, DECEMBER 10, 2001

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 11, 2001

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, December 10, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, December 11, 2001, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

COMMUNICATION FROM THE HONORABLE RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, December 4, 2001.

The Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 3(b) of the Public Safety Officer Medal of Valor Act of 2001 (P.L. 107–12), I hereby appoint the following people to the Medal of Valor Review Board:

Mr. Oliver ''Glenn'' Boyer—Hillsboro, MO.

Mr. Richard ''Smokey'' Dyer—Kansas City, MO.

Yours Very Truly,
RICHARD A. GEPHARDT.

WELCOME TO SOUTH FLORIDA RECEPTION IN HONOR OF DONNA SHALALA

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

Ms. ROS-LEHTINEN. Mr. Speaker, tonight the Humane Society of Greater Miami is hosting a ''Welcome to South Florida'' reception. The event is being held to welcome University of Miami President Donna Shalala and her dog, Cheka, to south Florida.

President Shalala was the longest-serving Secretary for Health and Human Services in U.S. history. Before that, she served as Chancellor of the University of Wisconsin-Madison, the first woman to head a Big 10 university.

She is now at a new job that she loves, President of the University of Miami, a major and leading research university in the southeastern United States, located in my congressional district.

□ 1745

President Shalala says that Cheka ''speaks English and Spanish and is a perfect fit for south Florida, the Gateway of the Americas.''

We thank Kelly Grimm and the Humane Society of Greater Miami for their dedication to helping homeless animals, and Donna Shalala as president of the University of Miami.

ENACT INTERSTATE WASTE LEGISLATION

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I come to the floor this afternoon to call attention to yet another trash truck accident on Interstate 95. On Tuesday, a possibly overloaded 18-wheeler hauling trash almost snapped in half on the Woodrow Wilson Bridge because of its cargo shifting en route, and it consequently snarled Washington rush hour traffic for several hours and caused a 9-mile backup. Fortunately, it appears no one was hurt.

This incident is only a symptom of a larger problem. Specifically, millions of tons of garbage are being shipped across State lines without States having the right to limit its importation. It makes our highways less safe and fouls the land and air in the communities surrounding the landfills. It is a health and safety matter that Congress should empower States to regulate.

Currently, the hands of the States are tied. I urge the 107th Congress to enact meaningful interstate waste legislation that will enable States to protect their citizens and their environment from this continuous flood of out-of-state trash.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SCHROCK). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

(Mr. GEKAS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONOR THE FALLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 5 minutes.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, today I would like to pick up where I left off yesterday in reading the names and paying tribute to those who perished as a result of the attacks on September 11, 2001. The fallen deserve our recognition, our remembrance, and our respect. Reading these names cannot make up for the pain and the devastation that the families of the victims have experienced. But I hope that by reading these names, we will show that we honor the victims; we will not forget:

Francis Nazario; Marcus Neblett; Glenroy Neblett; Jerome O. Nedd; Laurence Nedell; Luke Nee; Pete Negron; Laurie Ann Neira; Yu Neixing; Peter A. Nelson; James Arthur Nelson; Ann Nicole Nelson; David William Nelson; Michelle Ann Nelson; Oscar Nesbitt; Gerard Terence Nevins; Renee Newell; Christopher Newton; Christopher Newton-Carter; Nancy Yuen Ngo; Khang Nguyen; Jodie Nicolos; Kathleen Nicosia; Alfonse Joseph Niedermeyer, III; Martin Stewart Nierderer; Frank John Niestadt, Jr.; Juan Nieves, Jr.; Gloria Nieves; Troy Nilsen; Paul R. Nimbley; Mark Nindy; John Ballantine Niven; Curtis Noel; Michael Allen Noeth; Daniel Robert Nolan; Robert Walter Noonan; Jacqueline Norton; Robert Norton; Daniela R. Notaro; Brian Novotny; Soichi Numata; Jose R. Nunez; Brian Nunez; Jeffrey Nussbaum; Timothy Michael O'Brien; Michael O'Brien; Scott J. O'Brien; James O'Brien; Daniel O'Callaghan; Keith Kevin O'Connor; Diana J. O'Connor; Dennis J. O'Connor, Jr.; Richard J. O'Connor; Marni Pont O'Doherty; Amy O'Doherty; James Andrew O'Grady; Thomas O'Hagan; William O'Keefe; Patrick J. O'Keefe; Leslie Thomas O'Keefe; Gerald O'Leary; Matthew Timothy O'Mahony; Seamus L. O'Neal.

Mr. Speaker, I will continue this effort when the House convenes next week, and I intend to read these names for as many days as it takes to bring honor and recognition to those individuals who lost their lives or are still missing. I invite my colleagues to join me in this effort.

CONGRATULATING BENTONVILLE HIGH SCHOOL TIGERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BOOZMAN) is recognized for 5 minutes.

Mr. BOOZMAN. Mr. Speaker, I rise today to congratulate the Bentonville

High School Tigers on winning the 2001 Arkansas 5A football championship. The Tigers recently defeated El Dorado 23 to 16 to claim this honor after compiling a 12 to 1 record on the season and defeating two conference champions, including top-ranked Cabot High School en route to the State title.

Under the mentoring of head coach Gary Wear, the Tigers set a variety of school records and had a number of players named all-state and all-conference.

The Tigers' performance surprised many, including some folks in Bentonville itself, but it certainly did not surprise Coach Wear. He had his players in a winning mind-set from the start of the year and then worked hard to ensure that they maintained a positive attitude and work ethic that prepared them for the championship game last Saturday.

Mr. Speaker, I am delighted to see how this team's winning effort has brought the community of Bentonville together. I am very proud of these student athletes, their coaches, parents and supporters who worked so hard to achieve this goal.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONOR MATTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Mr. Speaker, on a recent Sunday afternoon I was driving to my mom and dad's home in Moselle. I have driven this road from Bassfield a thousand times. I passed our community's beautiful old cemetery, one I have driven by a thousand time.

On this Sunday, as always, I could see the grave of one of our Congressional Medal of Honor recipients, Roy Wheat, who fought in Vietnam. He was a hero and received the Congressional Medal of Honor. This is one of our highest honors and has been awarded only 3,455 times since the Civil War.

An old torn, faded, and battered American flag was flying at Roy's grave. I thought about his bravery. I thought about my father and his service in World War II. He was a Prisoner of War, and captured at the Battle of the Bulge. I thought about our veterans and military retirees and the men and women who are right now heroically standing down terrorism and defending our way of life.

Our flag has a way of making us think about it. Honor matters. Giving honor means providing great respect because of great worth and noble deeds done. I did not like seeing a faded, torn, and battered flag flying on Roy's grave. Honor matters.

Mr. Speaker, today I am introducing a bipartisan resolution to make sure we are properly honoring our war heroes. This resolution will make sure that our country's greatest military heroes, recipients of the Congressional Medal of Honor, are appropriately honored with the display of the American flag at their grave sites.

Currently flags are available for placement at grave sites of veterans cemeteries that are maintained by the Federal Government. But families of Congressional Medal of Honor winners who are privately buried do not have the assurance of always seeing the American flag at their grave sites.

This resolution simply states that the Secretary of Veterans Affairs should make American flags available to immediate family members of deceased Medal of Honor recipients, and to veterans' organizations and others responsible for maintaining these private grave sites.

Why? Because honor matters. It matters for those who have protected us as a memorial, and for those who do and will protect us as a reminder that their service is not in vain.

Our military is America's first line of defense from aggression and those who oppose freedom. Just like keeping our promise of health care, making sure the Montgomery GI bill is strong, and providing support for our current soldiers and those who have already served, this does matter.

If we do not honor our veterans and military retirees in both words and deeds, we dishonor their service. I will not ignore America's veterans and retirees. They have already given of themselves to us, and for that we owe them an incredible debt.

SIXTIETH ANNIVERSARY OF ATTACK ON PEARL HARBOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, tomorrow, December 7, the people of the United States will take the time to remember the attack on Pearl Harbor, which occurred nearly 60 years ago. In ceremonies at Pearl Harbor and particularly at the USS Arizona Memorial, we will take the time to remember the attack on our country, and we will pay tribute to those who died during that fateful Sunday morning. Our tribute and our effort will be made more significant as we simultaneously reflect on the heinous attack on our people made nearly 3 months ago in New York City and at the Pentagon across the river from Washington, D.C.

On the same day that Pearl Harbor was attacked, an American territory was also attacked at Wake Island and the then Commonwealth of the Philippines and my home island of Guam. Guam endured some 32 months of a brutal enemy occupation in which my people were tested and proved their loyalty and steadfastness to the principles that make America great.

But that day was December 8, 1941, on the other side of the international dateline, and it is that day that brings back the thoughts of struggle and bravery and patriotism and sacrifice which marks the World War II experience of the people of Guam.

But there is another story which needs to be told and which links the attacks on Guam and Pearl Harbor in a unique way. The people of Guam were present at Pearl Harbor. The people of Guam fought at Pearl Harbor, and the people at Guam died at Pearl Harbor. We know of at least 12 American sailors who were from Guam and who perished during that fateful morning. Six were aboard the USS *Arizona* and their names are on the solemn Arizona Memorial alongside their shipmates. Their sacrifice and devotion to duty have never specifically been recognized, and I will do so this weekend in Honolulu with a solemn wreath-laying at the Arizona Memorial.

The 12 Chamorro men who perished have a unique story to tell. All were mess attendants. All were part of a military institution at the time which allowed Chamorro men from Guam to join the U.S. Navy only as officers' mess attendants, cooks and stewards. However, they were not bitter, and they performed their duties and responsibilities in an exemplary way. They were grateful for the opportunity to join because only a limited number of men were accepted from Guam annually into the Navy during the decade prior to World War II. This provided an opportunity for them to become U.S. citizens and the chance to prove themselves, their devotion to duty and sacrifices made more special because of the circumstances of their service. They were not yet American citizens, they were denied the opportunity to serve in a different capacity, and they were sometimes not given the respect which they deserved. Yet they proudly served; and they passed along their patriotism, love of service, and pride of island to succeeding generations.

It is no longer remarkable to see Chamorro men from Guam serve in the military in a wide variety of capacities. It is not even remarkable to see so many Chamorros today serving as officers who themselves are the children and the grandchildren of these mess attendants. In fact, the master of ceremonies for this weekend's ceremony is Commander Peter Gumataotao, the son of Afustin Gumataotao, one of the mess attendants who survived the attack on Pearl Harbor. The people of Guam stand taller today because they stood on the shoulders of these men, and I certainly would like to pay them a tribute by reading the names of our elders: Gregorio San Nicolas Aguon, Nicolas San Nicolas Fegurgur, Francisco Reyes Mafnas, Vicente Gogue Meno, Jose Sanchez Quinata, Francisco Unpingco Rivera, Ignacio Camacho Farfan, Jose

San Nicolas Flores, Jesus Francisco Garcia, Andres Franquez Mafnas, Jesus Manalisay Mata, Enrique Castro Mendiola.

□ 1800

On Guam, we will never forget these men. In many Chamorro families around the country, we will not forget these men. We must make sure that every time we remember Pearl Harbor, we remember all of the men who were there and who gave the ultimate sacrifice.

The wreath will be inscribed ''Ti manmaleffa ham—ningaian.'' We will never forget—never.

In this, the 60th anniversary of the attack on Pearl Harbor, we will not forget.

TRULY STIMULATIVE ECONOMIC STIMULUS PACKAGE NEEDED

The SPEAKER pro tempore (Mr. SCHROCK). Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of an economic stimulus package that will benefit the growing number of unemployed and uninsured Americans and will thus be truly stimulative, while also fiscally and socially responsible.

As a long-time businessman, I can tell you that an economic recession results from a lack of demand for the goods and services that businesses produce. Our Nation is not suffering from a recession because businesses lack available workers, technology or equipment, but because they lack demand for their products.

However, the House has passed an economic stimulus bill composed largely of tax cuts and payments from large corporations that would do nothing to increase demand for their products and would have no stimulative effect in the near future.

If we are to stimulate the economy and end the recession, Congress must pass an economic stimulus bill that creates new jobs and provides assistance to unemployed workers. In doing so, we not only provide assistance to those in need, but we truly stimulate the economy by putting money into the hands of those people who are most likely to spend it immediately. This approach increases demand for goods and services, causing businesses to employ more workers and invest in more capital.

Mr. Speaker, some of the cash-rich multinational corporations that would receive billions of dollars from the House-passed economic stimulus bill have publicly stated that they have no plans to increase the amount they invest in plants, in workers and in new products. Writing large checks to these corporations does not stimulate the economy.

However, I can assure you that there are many vital projects in Congressional districts such as mine that are ready to be funded and would create badly needed jobs now. This kind of real economic stimulus would greatly improve the economy, the infrastructure and quality of life for countless Americans. Additionally, there are large numbers of unemployed workers who are anxious to enter the labor market and to earn money that they can spend on basic needs right now, providing an immediate stimulus to the economy.

Let us look at this employment chart. As you can see, Mr. Speaker, Hidalgo County, which is in my South Texas Congressional district, has seen its unemployment rate decrease substantially in recent years from the nearly 20 percent rate of unemployment in the past. However, even during the 10 year period of prosperity, from 1990 to the year 2000, and during the same period of lowest national unemployment, Hidalgo County's unemployment rate did not fall into a single digit.

Let us look at this Hidalgo County population growth chart. As the recession deepens and the population continues to explode, as shown in this chart, thousands of workers are likely to join the tens of thousands who are already desperately looking for jobs. These people constitute a potential source of economic stimulus should they be brought into the workforce to earn and spend their money.

If we do not reverse the course that the House of Representatives has taken, the exploding population and high unemployment rate in counties such as Hidalgo County will stretch available resources. If thousands of unemployed workers do not receive assistance, they will lack the basic necessities to receive health care, to send their children to school and to obtain housing and transportation. This situation only spirals downward to make it even more difficult for a large segment of the population to enter the workforce and fully contribute to the Nation's economy.

Congress has a chance to do something meaningful for the economy and the people of this Nation. Our economy is in recession because of insufficient demand. Creating jobs by funding needed projects and providing assistance to unemployed workers puts money in the pockets of people who will put it back into the economy immediately, stimulating demand and giving the economy an immediate boost.

However, writing a $1 billion check to a multinational corporation with over $8 billion in unused cash on its books does not increase demand, it does not stimulate the economy, and it is not fiscally responsible. In fact, firms that are faced with reduced demand for their products will lay off workers, regardless of how much cash they have.

In closing, Mr. Speaker, funding for any stimulus package will now come directly from the Social Security trust fund. Therefore, the stakes are incredibly high. We must pass the most socially and fiscally responsible economic stimulus possible. We must ensure that every dollar we spend goes to those who need it most, and to those who will most quickly and efficiently put it back into the economy.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. SANDERS) is recognized for 5 minutes.

(Mr. SANDERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING WALT DISNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SANCHEZ) is recognized for 5 minutes.

Ms. SANCHEZ. Mr. Speaker, today I rise to honor a man who has shown people all over the world that ''when you wish upon a star, dreams really can come true.''

One hundred years ago yesterday, on December 5, 1901, Walt Elias Disney was born in Chicago, Illinois. One hundred years later his legacy lives in the hearts and in the minds of children of all ages. Walt has impacted people from all over the world through his films, his theme parks and his incredible imagination.

Growing up in Anaheim, California, I was fortunate to have Disneyland in my own backyard. Now, as the Congresswoman from the Forty-sixth Congressional District, I get to represent Disneyland to the rest of the world.

I can still remember my first visit to Disneyland. One of my fondest memories was riding in the ''It's a Small World'' ride, a bunch of little dolls dancing around, singing in different languages, getting along together in perfect harmony. What a way to view the world, and what a way to teach a child about what the world is that we aspire to.

Imagine, people in the world sharing this laughter, their tears, their hopes, their fears. Walt envisioned a world where happiness transcended borders, a world where hate was nonexistent, and where joy and laughter cured all things.

After September 11, America has lost its innocence. And, unfortunately, the terrorist attacks have had a terrible toll on America's psyche and tourism in general. However, in this time of hardship, the hopes and the dreams of Americans are stronger than ever, and, thanks to Walt, Americans will always believe that ''anything their hearts desire will come to them.''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. BROWN) is recognized for 5 minutes.

(Ms. BROWN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

DEMOCRATIC PROCESS DISHONORED IN TRADE DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, through the tenure that I have had here in this body, I have had the opportunity to discuss and to engage in a vigorous debate on trade. On many instances I saw fit to vote for some forms of international trade. But, at that time, Mr. Speaker, there was engagement, bipartisan engagement. Under the leadership of President Clinton, every issue that was expressed by a Democrat or a Republican or an Independent was given full airing throughout the process.

Today, I believe we dishonored the democratic process in this House. There was no open discussion. There was simply an attempt to get someone's way, and it was evidenced by a vote of 215 to 214.

This is because in the Committee on Rules they would not allow a full debate and allow a very full and adequate substitute, which many business persons supported, authored by the gentleman from New York (Mr. RANGEL); one that expanded trade, opened new markets for U.S. workers, farmers and businesses; that had effective worker protections; that protected realistically the environment; and then held to the constitutional premise that when it comes to protecting the American people as to whether or not we would lose thousands of jobs, there must be Congressional oversight, which the Constitution mandates.

That is what the Rangel substitute had, and, Mr. Speaker, the Committee on Rules denied us the opportunity to have a full debate on that substitute, a substitute that would protect the American people. Instead, what we did is bring forth the Thomas bill, that had no sense of commitment to some of these very important issues.

I believe in what Democratic President John F. Kennedy said, ''a rising tide lifts all boats,'' and that we in the United States Congress have a responsibility to work on behalf of the Nation.

My district, in fact, is a district that has in some instances advocated trade because of the business community. But I have many constituents, Mr. Speaker, and right now I am shocked that anybody in the business community is focusing on anything but the thousands of people who have lost their jobs over these last couple of weeks, maybe 10,000 in and around the 18th Congressional District. I believe Houston will come back. But I would think that this White House, with a president from Texas, would have more concern about passing an economic stimulus package that would in fact have extended relief for those individuals who tragically, through no fault of their own, have lost their jobs.

This trade bill could have been a trade bill that would have included everyone, but, yet, no one was involved who had a different perspective. No one was involved who wanted to see more labor protections, wanted to see the protocols that include protection of human rights, the environment, making sure that there were labor standards.

We realize when you have international trade that some jobs will be lost, but more jobs are lost because the labor standards are diminished, and many corporations will rush to those places overseas in order to pay those unbelievably diminishing and demeaning hourly wages. So we do lose good American jobs.

But I do believe trade can be a boost to the economy. How can it be a boost to the economy? Only when we sit down and negotiate together.

We now face a declining economy, and we also are in jeopardy with our own environment. We still have issues dealing with clean water and clean air. Do we not hold to the premise that what is good for the goose is good for the gander? If we are fighting for clean air and clean water and the protection of our water, in light of what we are going through, would it not be appropriate for those countries to do the same where those corporations that carry our name rush to set up their institutions?

I am very saddened that the debate went to the level it did, that we are all fighting international terrorism. We are doing that. So many of us gave the authority to our President in unity because our soil was violated, our people lost their lives. I claim and will not in any way take a back seat to my patriotism.

But this bill had nothing to do with patriotism or fighting terrorism. In fact, I am more fearful of this bill than I am supportive of this bill as having anything to do with helping us fight terrorists around the world. I would much rather shore up this declining economy and provide the opportunities for constituents to have a bridge, so that they can find work.

Mr. Speaker, I believe we did not do what was right today on behalf of all of the American people. I say to my business community in an open letter, we have worked together, and I will not again take a back seat to my concern about the economy and boosting opportunities for trade. But we cannot do it by denying our own constituency, those who work hard, who labor, those who want a cleaner environment, and those who promote the Constitution, requiring Congressional oversight.

Mr. Speaker, I yield back the balance of my time, hoping we will be able to fix this very unseemly bill.

□ 1814

The SPEAKER pro tempore (Mr. SCHROCK). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

H.R. 3365 TO ALLOW BUSINESSES TO TEMPORARILY WITHDRAW FUNDS FROM THEIR IRAS WITHOUT PENALTY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, For weeks Congress had debated various economic stimulus plans. Meanwhile, the economy has continued to dive deeper into a recession.

In the third quarter, the economy collapsed at an annual rate of 1.1 percent, its worst showing since 1991. The Commerce Department reported that corporate profits fell 8.3 percent during the third quarter and decreased 22.2 percent compared with last year.

The economic downturn has hurt working families throughout the country. The number of unemployed persons increased by 732,000 to 7.7 million in October. The unemployment rate rose by 0.5 percentage points to 5.4 percent, the highest level since December 1996.

We need meaningful legislation to stimulate the economy, help unemployed workers, and assist struggling families.

On November 28, 2001 I introduced a bill allowing individuals suffering from the recession to withdraw funds from their Individual Retirement Accounts without penalty until September 12, 2002.

My bill temporarily waives the 10 percent Individual Retirement Account withdraw penalty fee for people who: Have received unemployment compensation for 12 consecutive weeks, have at least 10 percent stake in a small business that has suffered significant economic injury since September 11th, or lost a family member in a terrorist attack.

Congress cannot wait for the economy to recover on its own. We cannot wait for a stimulus plan whose effects may not been seen for months. We must pass legislation that immediately helps workers who have lost their jobs.

My bill will assist those who desperately need our help.

I urge my colleagues to help individuals during this recession by cosponsoring this important legislation.

CONFERENCE REPORT ON H.R. 2883

Mr. GOSS, submitted the following conference report and statement on the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government,

the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–328)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Codification of the Coast Guard as an element of the intelligence community.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Sense of Congress on intelligence community contracting.
Sec. 304. Requirements for lodging allowances in intelligence community assignment program benefits.
Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.
Sec. 306. Report on implementation of recommendations of the National Commission on Terrorism and other entities.
Sec. 307. Judicial review under Foreign Narcotics Kingpin Designation Act.
Sec. 308. Modification of positions requiring consultation with Director of Central Intelligence in appointments.
Sec. 309. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.
Sec. 310. Review of protections against the unauthorized disclosure of classified information.
Sec. 311. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.
Sec. 312. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.
Sec. 313. Report on alien terrorist removal proceedings.
Sec. 314. Technical amendments.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Modifications of central services program.
Sec. 402. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
Sec. 403. Guidelines for recruitment of certain foreign assets.
Sec. 404. Full reimbursement for professional liability insurance of counterterrorism employees.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Authority to purchase items of nominal value for recruitment purposes.
Sec. 502. Funding for infrastructure and quality-of-life improvements at Menwith Hill and Bad Aibling stations.
Sec. 503. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.
Sec. 504. Undergraduate training program for employees of the National Imagery and Mapping Agency.
Sec. 505. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.
Sec. 506. Enhancement of security authorities of National Security Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The National Reconnaissance Office.
(11) The National Imagery and Mapping Agency.
(12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2883 of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of $200,276,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $44,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be

used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. CODIFICATION OF THE COAST GUARD AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY.

Section 3(4)(H) of the National Security Act of 1947 (50 U.S.C. 401a(4)(H) is amended—

(1) by striking ''and'' before ''the Department of Energy''; and

(2) by inserting '', and the Coast Guard'' before the semicolon.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of $212,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 304. REQUIREMENTS FOR LODGING ALLOWANCES IN INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM BENEFITS.

Section 113(b) of the National Security Act of 1947 (50 U.S.C. 404h(b) is amended—

(1) by inserting ''(1)'' before ''An employee''; and

(2) by adding at the end the following new paragraph:

''(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

''(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of Central Intelligence and—

''(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

''(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

''(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

''(C) The lodging is within a reasonable proximity of the host agency duty station.

''(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

''(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employees parent duty station.

''(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS–15 of the General Schedule.''.

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''To the extent''; and

(2) by adding at the end the following new subsections:

''(b) FORM AND CONTENTS OF CERTAIN REPORTS.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

''(1) A concise statement of any facts pertinent to such report.

''(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

''(c) STANDARDS AND PROCEDURES FOR CERTAIN REPORTS.—The Director of Central Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).''.

SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report concerning whether, and to what extent, the Intelligence Community has implemented recommendations relevant to the Intelligence Community as set forth in the following:

(1) The report prepared by the National Commission on Terrorism established by section 591 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277).

(2) The report prepared by the United States Commission on National Security for the 21st Century, Phase III, dated February 15, 2001.

(3) The second annual report of the advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction established pursuant to section 1405 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 2301 note).

(b) RECOMMENDATIONS DETERMINED NOT TO BE ADOPTED.—In a case in which the Director determines that a recommendation described in subsection (a) has not been implemented, the report under that subsection shall include a detailed explanation of the reasons for not implementing that recommendation.

SEC. 307. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106–120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

SEC. 308. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) The Director of the Office of Intelligence of the Department of Energy.

''(D) The Director of the Office of Counterintelligence of the Department of Energy.''.

SEC. 309. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: ''Upon making such a determination, the Inspector General shall transmit to the Director notice of that determination, together with the complaint or information.''; and

(2) in subparagraph (D)(i), by striking ''does not transmit,'' and all that follows through ''subparagraph (B),'' and inserting ''does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),''.

(b) AUTHORITIES OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: ''Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information.''; and

(2) in subsection (d)(1), by striking ''does not transmit,'' and all that follows through ''subsection (b),'' and inserting ''does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b),''.

SEC. 310. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.

(a) REQUIREMENT.—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers appropriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) PARTICULAR CONSIDERATIONS.—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of

current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) REPORT.—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following:

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 311. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

SEC. 312. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Presidential Decision Directive 75, dated December 28, 2000, entitled ''U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century'', including any modification of that Strategy or any such Assessment, may only take effect if approved by the President. The Strategy, each Assessment, and any modification thereof, shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

SEC. 313. REPORT ON ALIEN TERRORIST REMOVAL PROCEEDINGS.

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding after subsection (k) the following new subsection:

''(l) Not later than 3 months from the date of the enactment of this subsection, the Attorney General shall submit to Congress a report concerning the effect and efficacy of alien terrorist removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past and the effect on the use of these proceedings after the enactment of the USA PATRIOT Act of 2001 (Public Law 107–56).''.

SEC. 314. TECHNICAL AMENDMENTS.

(a) FISA.—The Foreign Intelligence Surveillance Act of 1978 is amended as follows:

(1) Section 101(h)(4) (50 U.S.C. 1801(h)(4)) is amended by striking ''twenty-four hours'' and inserting ''72 hours''.

(2) Section 105 (50 U.S.C. 1805) is amended—

(A) by inserting '', if known'' in subsection (c)(1)(B) before the semicolon at the end;

(B) by striking ''twenty-four hours'' in subsection (f) each place it appears and inserting ''72 hours'';

(C) by transferring the subsection (h) added by section 225 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 295) so as to appear after (rather than before) the subsection (h) redesignated by section 602(b)(2) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106–567; 114 Stat. 2851) and redesignating that subsection as so transferred as subsection (i); and

(D) in the subsection transferred and redesignated by subparagraph (C), by inserting ''for electronic surveillance or physical search'' before the period at the end.

(3) Section 301(4)(D) (50 U.S.C. 1821(4)(D)) is amended by striking ''24 hours'' and inserting ''72 hours''.

(4) Section 304(e) (50 U.S.C. 1824(e)) is amended by striking ''24 hours'' each place it appears and inserting ''72 hours''.

(5) Section 402 (50 U.S.C. 1842) is amended—

(A) in subsection (c), as amended by paragraphs (2) and (3) of section 214(a) of the USA PATRIOT Act (115 Stat. 286), by inserting ''and'' at the end of paragraph (1); and

(B) in subsection (f), by striking ''of a court'' and inserting ''of an order issued''.

(6) Subsection (a) of section 501 (50 U.S.C. 1861), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 287), is amended by inserting ''to obtain foreign intelligence information not concerning a United States person or'' in paragraph (1) after ''an investigation''.

(7) Section 502 (50 U.S.C. 1862), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 288), is amended by striking ''section 402'' both places it appears and inserting ''section 501''.

(8) The table of contents in the first section is amended—

(A) by inserting ''Sec.'' at the beginning of the items relating to sections 401, 402, 403, 404, 405, 406, and 601; and

(B) by striking the items relating to sections 501, 502, and 503 and inserting the following:

''Sec. 501. Access to certain business records for foreign intelligence and international terrorism investigations.

''Sec. 502. Congressional oversight.''.

(b) TITLE 18, UNITED STATES CODE.—Paragraph (19) of section 2510 of title 18, United States Code, as added by section 203(b)(2)(C) of the USA PATRIOT Act (115 Stat. 280), is amended by inserting '', for purposes of section 2517(6) of this title,'' before ''means''.

(c) USA PATRIOT ACT.—Effective as of the enactment of such Act and as if included therein as originally enacted, the USA PATRIOT Act (Public Law 107–56) is amended—

(1) in section 207(b)(1) (115 Stat. 282), by striking ''105(d)(2)'' and ''1805(d)(2)'' and inserting ''105(e)(2)'' and ''1805(e)(2)'', respectively; and

(2) in section 1003 (115 Stat. 392), by inserting ''of 1978'' after ''Act''.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.

(a) ANNUAL AUDITS.—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking ''December 31'' and inserting ''January 31''; and

(2) by striking ''conduct'' and inserting ''complete''.

(b) PERMANENT AUTHORITY.—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking ''paragraph (3)'' and inserting ''paragraph (2)''; and

(4) in paragraph (2), as so redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

SEC. 402. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) in subsection (f), by striking ''September 30, 2002'' and inserting ''September 30, 2003''; and

(2) in subsection (i), by striking ''or 2002'' and inserting ''2002, or 2003''.

SEC. 403. GUIDELINES FOR RECRUITMENT OF CERTAIN FOREIGN ASSETS.

Recognizing dissatisfaction with the provisions of the guidelines of the Central Intelligence Agency (promulgated in 1995) for handling cases involving foreign assets or sources with human rights concerns and recognizing that, although there have been recent modifications to those guidelines, they do not fully address the challenges of both existing and long-term threats to United States security, the Director of Central Intelligence shall—

(1) rescind the existing guidelines for handling such cases;

(2) issue new guidelines that more appropriately weigh and incentivize risks to ensure that qualified field intelligence officers can, and should, swiftly and directly gather intelligence from human sources in such a fashion as to ensure the ability to provide timely information that would allow for indications and warnings of plans and intentions of hostile actions or events; and

(3) ensure that such information is shared in a broad and expeditious fashion so that, to the extent possible, actions to protect American lives and interests can be taken.

SEC. 404. FULL REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE OF COUNTERTERRORISM EMPLOYEES.

Section 406(a)(2) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2849; 5 U.S.C. prec. 5941 note) is amended by striking ''one-half'' and inserting ''100 percent''.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

(a) AUTHORITY.—Section 422 of title 10, United States Code, is amended by adding at the end the following:

''(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 422. Use of funds for certain incidental purposes''.

(2) Such section is further amended by inserting at the beginning of the text of the section the following:

''(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—''.

(3) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 21 of such title is amended to read as follows:

''422. Use of funds for certain incidental purposes.''.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY-OF-LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS.

(a) AUTHORITY.—

(1) In addition to funds otherwise available for such purpose, the Secretaries of the Army, Navy, and Air Force may each transfer or reprogram such funds as are necessary—

(A) for the enhancement of the capabilities of the Menwith Hill Station and Bad Aibling Station, including improvements of facility infrastructure and quality of life programs at those installations; and

(B) at the appropriate time, for costs associated with the closure of the Bad Aibling Station.

(2) The authority provided in paragraph (1) may be exercised notwithstanding any other provision of law.

(b) SOURCE OF FUNDS.—Funds available for any of the military departments for operation and maintenance shall be available to carry out subsection (a).

(c) BUDGET REPORT.—The Secretary of each military department shall ensure—

(1) that the annual budget request of that military department reflects any funds transferred or reprogrammed under this section for the preceding fiscal year; and

(2) that a copy of the portion of the budget request showing each such transfer or reprogramming is transmitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of funds from the Department of the Army, the Department of the Navy, or the Department of the Air Force to the Menwith Hill Station at the Bad Aibling Station.

SEC. 503. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING.

(a) CERTIFICATION REQUIRED FOR IMMUNITY.—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 2291–4) is amended by striking '', before the interdiction occurs, has determined'' in the matter preceding subparagraph (A) and inserting ''has, during the 12-month period ending on the date of the interdiction, certified to Congress''.

(b) ANNUAL REPORTS.—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) ANNUAL REPORT.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

''(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

''(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

''(C) A complete description of any assistance provided under subsection (b).

''(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

''(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.''.

SEC. 504. UNDERGRADUATE TRAINING PROGRAM FOR EMPLOYEES OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) AUTHORITY TO CARRY OUT TRAINING PROGRAM.—Subchapter III of chapter 22 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 462. Financial assistance to certain employees in acquisition of critical skills

''The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Imagery and Mapping Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''462. Financial assistance to certain employees in acquisition of critical skills.''.

SEC. 505. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.

(a) CONSULTATION IN PREPARATION.—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

SEC. 506. ENHANCEMENT OF SECURITY AUTHORITIES OF NATIONAL SECURITY AGENCY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

''SEC. 11. (a)(1) The Director of the National Security Agency may authorize agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes' (40 U.S.C. 318) with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

''(A) at the National Security Agency Headquarters complex and at any facilities and protected property which are solely under the administration and control of, or are used exclusively by, the National Security Agency; and

''(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such facilities or protected property and extending outward 500 feet.

''(2) The performance of functions and exercise of powers under subparagraph (B) of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to agency installations, property, or employees.

''(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

''(4) The rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) of paragraph (1).

''(5) Not later than July 1 each year, the Director shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report that describes in detail the exercise of the authority granted by this subsection and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make each such report available to the Inspector General of the National Security Agency.

''(b) The Director of the National Security Agency is authorized to establish penalties for violations of the rules or regulations prescribed by the Director under subsection (a). Such penalties shall not exceed those specified in the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c).

''(c) Agency personnel designated by the Director of the National Security Agency under subsection (a) shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) refers.''.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,
DOUGLAS BEREUTER,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
JIM GIBBONS,
RAY LAHOOD,
DUKE CUNNINGHAM,
PETE HOEKSTRA,
RICHARD BURR,
SAXBY CHAMBLISS,
NANCY PELOSI,
SANFORD BISHOP,
JANE HARMON,
GARY CONDIT,
TIM ROEMER,
ALCEE L. HASTINGS,
LEONARD L. BOSWELL,
COLLIN C. PETERSON,
Mangers on the Part of the House.

BOB GRAHAM,
JOHN D. ROCKEFELLER IV,
DIANNE FEINSTEIN,
RON WYDEN,
RICHARD DURBIN,
EVAN BAYH,
JOHN EDWARDS,
BARBARA MIKULSKI,
RICHARD SHELBY,
JON KYL,
JAMES INHOFE,
ORRIN G. HATCH,
PAT ROBERTS,
MIKE DEWINE,
FRED THOMPSON,
RICHARD G. LUGAR,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2883), to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other

purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The managers agree that the congressionally directed actions described in the House bill, the Senate amendment, the respective committee reports, and classified annexes accompanying H.R. 2883, should be undertaken to the extent that such congressionally directed actions are not amended, altered, or otherwise specifically addressed in either this Joint Explanatory Statement or in the classified annex to the conference report on the bill H.R. 2883.

Rebuilding the Nation's Intelligence Capabilities

The conferees note that the fiscal year 2002 budget request submitted by the President includes a substantial increase for programs funded in the National Foreign Intelligence Program. This authorization bill further enhances that investment. The conferees believe this funding increase should represent the first installment of at least a five-year effort to correct serious deficiencies that have developed over the past decade in the Intelligence Community. The conferees recognize that these deficiencies existed prior to the events of September 11th and, indeed, they have been consistently highlighting these shortfalls for the past seven years. Put simply, although the end of the Cold War warranted a reordering of national priorities, the steady decline in intelligence funding since the mid-1990s left the nation with a diminished ability to address the emerging threats and technological challenges of the 21st Century.

In this budget, the conferees seek to highlight four priority areas that must receive significant attention in the near term if intelligence is to fulfill its role in our national security strategy. Those are: (1) revitalizing the National Security Agency (NSA); (2) correcting deficiencies in human intelligence; (3) addressing the imbalance between intelligence collection and analysis; and (4) rebuilding a robust research and development program.

The conferees' top priority last year was the revitalization of the National Security Agency. This continues to be the conferees' number one concern. Within the next five years, the NSA must have the ability to collect and exploit electronic signals in a vastly differenct communications environment. Along with significant investment in technology, this means closer collaboration with clandestine human collectors. The computer and telecommunications systems that NSA employees use to accomplish their work must be state-of-the-art technology. Analysts must have sophisticated software tools to allow them to exploit fully the amount of data available in the future.

Correcting deficiencies in the area of human intelligence is critical for the Intelligence Community if it is to meet the increasingly complex and growing set of collection requirements within the next five years. The Central Intelligence Agency (CIA) will need to hire case officers capable of dealing with the explosion of technology, both as collection tools and as potential threats. These individuals must be able to operate effectively in the many places around the world. To do that, the CIA must place even greater emphasis on the diversity of the new recruits. As importantly, the emphasis of our human collection must change in such a way that places a priority on being able to access the types of information that reveal the plans and intentions of those who would harm U.S. interests. The human intelligence system also must be integrated more closely with our other collection capabilities.

As we do a better job of collecting intelligence, we also must enhance our ability to understand this information. The percentage of the intelligence budget devoted to processing and analysis has been declining steadily since 1990. Although collection systems are becoming more and more capable, our investment in analysis continues to decline. The disparity threatens to overwhelm our ability to effectively use the information collected. To address this problem, the conferees have added funds to finance promising all-source analysis initiatives across the Community. Over the next five years, the Intelligence Community must rebuild its all-source analytical capability, creating a force that can truly present a global coverage capability.

The conferees' fourth priority, a strong research and development program, supports all of the other initiatives and more. Over the past decade, agencies have allowed research and development accounts to be the ''bill payer'' for funding shortfalls, and have sacrificed modernization and innovation in the process. The conferees believe that over the next five years, there must be a review of several emerging technologies to determine what will provide the best long-term return on investment, while ensuring that sufficient incentives for ''risk'' are promoted in order to bring R&D to the ''cutting edge.'' As part of such an effort, the conferees continue to support and encourage a symbiotic relationship between the Intelligence Community and the private sector using innovative approaches such as the Central Intelligence Agency's In-Q-Tel.

Although the conferees believe that this authorization represents a ''down payment'' for a five-year effort to rebuild our intelligence capabilities, they also believe that, in light of the horrible and tragic terrorist attacks, this year's authorization represents only a snapshot in time, and does not necessarily represent the critically needed long-term investments sufficient to bolster national security objectives. In fact, the conferees believe that this authorization is only the beginning of what must be a substantial investment if the nation is to have the intelligence capabilities required to protect national security and to provide the first line of defense against terrorism and other transnational issues.

Beyond the four priority areas mentioned above, significant attention is needed elsewhere as well. For example, designing and procuring the appropriate capabilities for technical collection to replace our aging systems must also be addressed. Additionally, there are areas that the Administration must address that are beyond financial investment, and go to instilling, within the Intelligence Community, a focus on ensuring anticipatory access, so as to be able to obtain information on plans and intentions in order to prevent crises. The Intelligence Community must create a ''culture'' that is less risk averse.

Finally, the conferees believe that any effort to invest in and expand intelligence capabilities will only be marginally successful, at best, if there is not a parallel effort to change the structure of the Community where appropriate. Today's intelligence structure is not suitable to address current and future challenges, and the conferees look forward to working with the Administration on this issue as well.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 2001. Section 101 is identical to section 101 of the House bill and section 101 of the Senate amendment, except for the addition of the Coast Guard, see section 105, infra.

SEC. 102 CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2002 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The classified annex provides the details of the Schedule. Section 102 is identical to section 102 of the House bill and section 102 of the Senate amendment.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 2002 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not too exceed two percent of the total of the ceilings applicable under section 102. The Director of Central Intelligence may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

The managers emphasize that the authority conferred by section 103 is not intended to permit wholesale increases in personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The managers do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs that are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 is identical to section 103 of the House bill and section 103 of the Senate amendment.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account (CMA) of the Director of Central Intelligence (DCI) and sets the personnel end-strength for the Intelligence Community management staff for fiscal year 2002.

Subsection (a) authorizes appropriations of $200,276,000 for fiscal year 2002 for the activities of the CMA of the DCI.

Subsection (b) authorizes 343 full-time personnel for the Community Management Staff for fiscal year 2002 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits these additional amounts to remain available through September 30, 2003.

Subsection (d) requires that, except as provided in Section 113 of the National Security Act of 1947, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes $44,000,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires the DCI to transfer these funds to the Department of Justice to be used for NDIC activities under the authority of the Attorney General and subject to section 103(d)(1) of the National Security Act. Subsection (e) is similar to subsection (e) of the House bill and subsection (e) of the Senate amendment.

The managers note that since Fiscal Year 1997 the Community Management Account has included authorization for appropriations for the National Drug Intelligence Center (NDIC). The committees periodically have expressed concern about the effectiveness of NDIC and its ability to fulfill the role for which it was created. The managers are encouraged by the NDIC's recent performance and by the refocused role for the organization. The conferees request that the Director of the NDIC provide a spending plan for fiscal year 2002 to the intelligence committees and to the appropriations committees within 90 days of enactment of this Act.

SEC. 105 CODIFICATION OF THE COAST GUARD AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY

Section 105 is identical to Section 105 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 is identical to Section 201 of the Senate amendment and section 201 of the House bill.

TITLE III—GENERAL PROVISIONS

Subtitle A—Intelligence Community

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Section 301 is identical to Section 301 of the Senate amendment and section 301 of the House bill.

SEC. 302 RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 is identical to Section 302 of the Senate amendment and section 302 of the House bill.

SEC. 303 SENSE OF THE CONGRESS OF INTELLIGENCE COMMUNITY CONTRACTING

Section 303 is identical to Section 303 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 304. REQUIREMENTS FOR LODGING ALLOWANCES IN INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM BENEFITS

Section 304 is identical to Section 304 of the House amendment. The Senate amendment had no similar provision. The Senate recedes.

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES

Section 305 is identical to Section 305 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES

Section 306 is similar to Section 307 of the House bill, which requires a report from the Director of Central Intelligence concerning whether and to what extent, the Intelligence Community has implemented the applicable recommendations set forth by the National Commission on Terrorism (Bremer Commission). The DCI report, which shall be due 120 days after enactment of this legislation, shall include a detailed explanation from the DCI as to the reasons for not implementing Intelligence Community-related recommendations contained within the three commission reports. The Senate amendment had no similar provision. The conferees agree to expand the DCI's reporting requirement to include applicable provisions of the US commission on National Security for the 21st Century and the second annual report of the so-called Gilmore Commission. The Senate amendment had no similar provision. The Senate recedes.

SEC. 307. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT

Section 307 is identical to Section 303 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC, 308. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS

Section 308 is identical to Section 304 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 309. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS

Section 309 is identical to Section 306 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 310. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION

Section 310 is identical to Section 307 of the Senate amendment. The House bill had no similar provision. The House recedes. The conferees expect a report no later than May 1, 2002, from the Attorney General providing a comprehensive review of current protections against the unauthorized disclosure of classified information.

SEC. 311. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

Section 311 is identical to Section 309 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 312. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTER-INTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS

Section 312 is identical to Section 310 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 313. REPORT ON ALIEN TERRORIST REMOVAL PROCEEDINGS

Section 313 is identical to section 312 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 314. TECHNICAL AMENDMENTS

Extension of Time to Seek FISA Ratification of Attorney General-authorized Electronic Surveillance and Physical Searches

Under current law, the Attorney General may authorize electronic surveillance or a search without a court order when he concludes, first, that the factual basis for granting such an order exists and, second, that an emergency exists requiring action before a court order may be obtained. 50 U.S.C. §§1805(f), 1824(e). Current law requires the Government to prepare a complete FISA application and present it to the FISA court for approval within 24 hours ''after the Attorney General authorizes'' the surveillance or search. Failure to do so results in the suppression of information from the surveillance or search.

Given the length and complexity of many FISA applications, the need to verify the accuracy of each FISA declaration by review in the field, the requirement that the Government obtain both a written certification from the director of the FBI (or a similar official) and the written approval of the Attorney General, it often is extremely difficult to meet the 24-hour deadline. This is especially true where—as often will be the case—the emergency authorization comes in the midst of a larger emergency requiring the personal attention of the Attorney General and the Director of the FBI. The emergency authorization provision of title III wiretaps, 18 U.S.C. §2518(7), sets a deadline of 48-hours, and starts the 48-hour clock not at the time of authorization, but only once the interception ''has occurred, or begins to occur.''

The conferees agreed to a provision to extend the time for judicial ratification of an emergency FISA surveillance or search from 24 to 72 hours. That would give the Government adequate time to assemble an application without requiring extraordinary effort by officials responsible for the preparation of those applications. The additional 48 hours for FISA applications is appropriate given their complexity and the need for higher-level approval for FISA applications than for applications under title III. The additional time is also appropriate given that the deadline for submission of applications under FISA begins when the Attorney General authorizes the surveillance or search, rather than when the surveillance or search actually occurs, as is the case under title III.

Multipoint Wiretaps

The multipoint wiretap amendment to FISA in the USA PATRIOT Act (section 206) allows the FISA court to issue generic orders of assistance to any communications provider or similar person, instead of to a particular communications provider. This change permits the Government to implement new surveillance immediately if the FISA target changes providers in an effort to thwart surveillance. The amendment was directed at persons who, for example, attempt to defeat surveillance by changing wireless telephone providers or using pay phones.

Currently, FISA requires the court to ''specify'' the ''nature and location of each of the facilities or places at which the electronic surveillance will be directed.'' 50 U.S.C. §1805(c)(1)(B). Obviously, in certain situations under current law, such a specification is limited. For example, a wireless phone has no fixed location and electronic mail may be accessed from any number of locations.

To avoid any ambiguity and clarify Congress' intent, the conferees agreed to a provision which adds the phrase, ''if known,'' to the end of 50 U.S.C. §1805(c)(1)(B). The ''if known'' language, which follows the model of 50 U.S.C. §1805(c)(1)(A), is designed to avoid any uncertainty about the kind of

specification required in a multipoint wiretap case, where the facility to be monitored is typically not known in advance.

Non-conformity of FISA Subsections 501(a)(1) and 501(b)(2)

Section 215 of the USA PATRIOT Act of 2001 amended title V of the FISA, adding a new section 501. Section 501(a)(1) now authorizes the director of the FBI to apply for a court order to produce certain records ''for an investigation to protect against international terrorism or clandestine intelligence activities.'' Section 501(b)(2) directs that the application for such records specify that the purpose of the investigation is to ''obtain foreign intelligence information not concerning a United States person.'' However, section 501(a)(1), which generally authorizes the applications, does not contain equivalent language. Thus, subsections (a)(1) and (b)(2) now appear inconsistent.

The conferees agreed to a provision which adds the phrase ''to obtain foreign intelligence information not concerning a United States person or'' to section 501(a)(1). This would make the language of section 501(a)(1) consistent with the legislative history of section 215 of the USA PATRIOT Act (*see* 147 Cong. Res. S11006 (daily ed. Oct. 25, 2001) (sectional analysis)) and with the language of section 214 of the USA PATRIOT Act (authorizing an application for an order to use pen registers and trap and trace devices to ''obtain foreign intelligence information not concerning a United States person'').

Clarification of Intelligence Exception

Section 203(b)(2) of the USA PATRIOT Act added a definition of ''foreign intelligence information'' to chapter 119 of title 18, United States Code. The existing intelligence exception from certain chapters of title 18—i.e., chapters 119, 121, and 206—is contained in chapter 119 (at 18 U.S.C. §2511(2)(f)) and uses the term ''foreign intelligence information'' to define the scope of the exception. As a result, the new definition of ''foreign intelligence information'' added by section 203(b)(2) could potentially be read to limit the intelligence exception—particularly when compared to the National Security Act definition of ''foreign intelligence'' (50 U.S.C. §401(a)).

Other Technical Amendments

The conferees agreed to provisions correcting several drafting problems in the text of the USA PATRIOT Act. First, section 207(b)(1) of the PATRIOT ACT refers to section 105(d)(2) instead of section 105(e)(2) and to 50 U.S.C. §1805(d)(2) instead of 50 U.S.C. §1805(e)(2). Second, section 215 (creating new section 502 of FISA) refers to ''section 402'' instead of ''section 501'' in the last line of new section 502(a) and in the last line of new section 502(b)(1). Third, section 225 adds a new subsection (h) immediately following 50 U.S.C. §1805(g), but it should add a new subsection (i) immediately following 50 U.S.C. §1805(h).

Fourth, the title of section 225 is ''Immunity for Compliance with FISA Wiretap'' and it is an amendment to 50 U.S.C. §1805, both of which suggest that it applies only to electronic surveillance and not to physical searches or other activity authorized by FISA. However, the text of section 225 refers to court orders and requests for emergency assistance ''under this Act,'' which makes clear that it applies to physical searches (and pen-trap requests—for which there already exists an immunity provision, 50 U.S.C. §1842(f)—and subpoenas) as well as to electronic surveillance.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MODIFICATIONS TO CENTRAL INTELLIGENCE AGENCY'S CENTRAL SERVICE PROGRAM

Section 401 is identical to Section 401 of the House bill and Section 402 of the Senate amendment.

SEC. 402. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT

Section 402 is identical to Section 402 of the House bill and section 401 of the Senate amendment.

SEC. 403. GUIDELINES FOR RECRUITMENT OF CERTAIN FOREIGN ASSETS

Section 403 addresses the CIA's 1995 guidelines on recruitment of foreign assets and sources. The House bill noted the concern that excessive caution and a burdensome vetting process resulting from the 1995 guidelines have undermined the CIA's ability and willingness to recruit assets, especially those who would provide insights into terrorist organizations and other hard targets.

The conferees believe that the concerns expressed in the House bill are justified and that, despite the changes to the 1995 guidelines that the Director of Central Intelligence made in September, the current guidelines must be rescinded and replaced with new guidelines. The conferees intend that a new balance be struck between potential gain and risk, a balance that recognizes concerns about egregious human rights behavior and law breaking, while providing much needed flexibility to take advantage of opportunities to gather important information as those opportunities present themselves. Moreover, the conferees believe that the goals and priorities for human collection must be weighted toward collecting the type of information that will provide plans and intentions of those who would threaten American national security, in a timeframe that will allow maximum opportunity to prevent actions against American interests. The conferees acknowledge that it may not always be possible to collect such information in every case, but this must be a focus for planning future HUMINT collection efforts if such collection is going to be preventative in nature rather than reactive. The Senate amendment had no similar provision. The Senate recedes.

SEC. 404. FULL REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE OF COUNTERTERRORISM EMPLOYEES

Section 404 is identical to Section 404 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES

Section 501 is identical to Section 501 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY-OF-LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS

Section 502 is similar to Section 502 of the House bill. The provision is intended to facilitate the transfer or reprogramming of funds from the Departments of the Army, Air Force, and Navy as necessary to support the enhancement of the infrastructure of Menwith Hill and Bad Aibling stations. The Senate amendment had no similar provision. The Senate recedes.

SEC. 503. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING

Section 503 is identical to Section 503 of the House bill and Section 308 of the Senate amendment.

SEC. 504. UNDERGRADUATE TRAINING PROGRAM FOR EMPLOYEES OF THE NATIONAL IMAGERY AND MAPPING AGENCY

Section 504 is identical to Section 504 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

SEC. 505. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Section 505 is identical to Section 311 of the Senate amendment. The House bill had no similar provision. The House recedes.

SEC. 506. ENHANCEMENT OF SECURITY AUTHORITIES OF NATIONAL SECURITY AGENCY

Section 506 authorizes the National Security Agency (NSA) security protective officers to exercise their law enforcement functions 500 feet beyond the confines of NSA facilities. At present, NSA's protective jurisdiction does not extend beyond the territorial bounds of its perimeter fences. Additionally, NSA has to rely on several federal, state, and local jurisdictions to respond to threats that occur just outside its fence line. With so many jurisdictions involved, there is a chance that a necessary response could be slowed and thus ineffective. In addition, under current law (Section 11 of the National Security Agency Act of 1959) the Administrator of General Services, upon the application of the Director of NSA, may provide for the protection of those facilities that are under the control of or use by the National Security Agency. The General Services Administration has delegated this authority to NSA. This amendment to the National Security Agency Act would provide NSA with the organic authority needed to protect its facilities and personnel without having to obtain a delegation of authority from the General Services Administration. This section parallels authority the Central Intelligence Agency currently has in section 15 of the CIA Act of 1949 (50 U.S.C. 403o).

The attacks of September 11, 2001 demonstrated the growing threat of terrorism in the United States. The conferees believe the NSA's authority to have a protective detail should be clarified and enhanced 500 feet beyond the confines of NSA's facilities, but were sensitive to the public's reaction to an unlimited grant of law enforcement jurisdiction outside NSA's borders. Therefore, the exercise of this new authority is expressly limited to only those circumstances where NSA security protective officers can identify specific and articulable facts giving them reason to believe that the exercise of this authority is necessary to protect against physical damage or injury to NSA installations, property, or employees. This provision also expressly states that the rules and regulations prescribed by the Director of the NSA for agency property and installations do not extend into the 500 foot area established by this provision. Thus, there will be no restrictions, for example, on the taking of photographs within the 500 foot zone.

The conferees do not envision a general grant of police authority in the 500 foot zone, but do envision NSA security protective officers functioning as federal police, for limited purposes, within the 500 foot zone with all attendant authorities, capabilities, immunities, and liabilities. The conferees expect the Director of NSA to coordinate and establish Memoranda of Understanding with all federal, state, or local law enforcement agencies with which NSA will exercise concurrent jurisdiction in the 500 foot zones. The Director of NSA shall submit such Memoranda of Understanding to the Select Committee on Intelligence and the Armed Services Committee of the Senate and the Permanent Select Committee on Intelligence

and the Armed Services Committee of the House of Representatives. The Director of NSA is also expected to develop a training plan to familiarize the Agency's security protective officers with their new authorities and responsibilities. The Director of NSA shall submit such plan to the Select Committee on Intelligence and the Armed Services Committee of the Senate and the Permanent Select Committee on Intelligence and the Armed Services Committee of the House of Representatives not later than 30 days after the enactment of this provision.

Section 506 also includes a reporting requirement so that the intelligence committees may closely scrutinize the exercise of this new authority.

Items Not Included

Section 306 of the House bill contained a provision establishing, with respect to the terrorist attacks of September 11, 2001, a federal commission on the national security readiness of the United States. The Senate bill had no similar provision. The House recedes.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,
DOUGLAS BEREUTER,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
JIM GIBBONS,
RAY LAHOOD,
DUKE CUNNINGHAM,
PETE HOEKSTRA,
RICHARD BURR,
SAXBY CHAMBLISS,
NANCY PELOSI,
SANFORD BISHOP,
JANE HARMAN,
GARY CONDIT,
TIM ROEMER,
ALCEE L. HASTINGS,
LEONARD L. BOSWELL,
COLLIN C. PETERSON,
Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 4:30 p.m. on account of personal business.

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today after 5:00 p.m. on account of personal business.

Mrs. MORELLA (at the request of Mr. ARMEY) for today until 12:00 noon on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Ms. SANCHEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

ENROLLED JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, December 10, 2001, at 2 p.m.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, November 13, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA'') (2 U.S.C. §1316a(4)) and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am submitting on behalf of the Office of Compliance, U.S. Congress, this notice of proposed rulemaking for publication in the Congressional Record. This notice seeks comment on substantive regulations being proposed to implement section 4(c) of VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law.

Very truly yours,

SUSAN S. ROBFOGEL,
Chair of the Board.

OFFICE OF COMPLIANCE

The Veterans Employment Opportunities Act of 1998: Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance (''Board'') is publishing proposed regulations to implement section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA''), Pub. L. 105–339, 112 Stat. 3186, codified at 2 USC §1316a, as applied to covered employees of the House of Representatives, the Senate, and certain Congressional instrumentalities.

The VEOA applies to the legislative branch the rights and protections pertaining to veterans' preference established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code (''USC'').

This Notice proposes that identical regulations be adopted for the Senate, the House of Representatives, and the six Congressional instrumentalities and for their covered employees. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Interested parties may submit comments within 30 days after the date of publication of this Notice of Proposed Rulemaking in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Director, Central Operations Department, Office of the Senate Sergeant at Arms, (202) 224–2705.

Supplementary Information:

Background

The Veterans Employment Opportunities Act of 1998[1] ''strengthen[s] and broadens''[2] the rights and remedies available to military veterans who are entitled, under the Veterans' Preference Act of 1944[3] (and its amendments), to preferred consideration in appointment to the Federal civil service of the executive branch and in retention during reductions in force (''RIFs''). In addition, and most relevant to this NPR, VEOA affords to ''covered employees'' of the legislative branch (as defined by section 101 of the Congressional Accountability Act (''CAA'') (2 USC §1301)) the rights and protections of selected provisions of veterans' preference law. VEOA §4(c)(2). The selected statutory sections made applicable to such legislative

[1] Pub. L. 105–339, 112 Stat. 3186 (Oct. 31, 1998).

[2] Sen. Rept. 105–340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[3] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5, USC.

branch employees by VEOA may be summarized as follows.

A definitional section prescribes the categories of military veterans who are entitled to preference (''preference eligible''). 5 USC §2108. Generally, a veteran must be disabled or have served on active duty in the Armed Forces during certain specified time periods or in specified military campaigns to be entitled to preference. In addition, certain family members (mainly spouses, widow[er]s, and mothers) of preference eligible veterans are entitled to the same rights and protections.

In the appointment process, a preference eligible individual who is tested or otherwise numerically evaluated for a position in the competitive service is entitled to have either 5 or 10 points added to his/her score, depending on his or her military service, or disabling condition. 5 USC §3309. Where experience is a qualifying element for a job in the competitive service, a preference eligible individual is entitled to credit for having relevant experience in the military or in various civic activities. 5 USC §3311. Where physical requirements (age, height, weight) are a qualifying element for a position in the competitive service, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3312. For certain positions in the competitive service (guards, elevator operators, messengers, custodians), only preference eligible individuals can be considered for hiring so long as such individuals are available. 5 USC §3310.

Finally, in prescribing retention rights during RIFs for positions in both the competitive and in the excepted service, the sections in subchapter I of chapter 35 of Title 5, USC, with a slightly modified definition of ''preference eligible,'' require that employing agencies give ''due effect'' to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 USC §§3501, 3502. Such considerations also apply where RIFs occur in connection with a transfer of agency functions from one agency to another. 5 USC §3503. In addition, where physical requirements (age, height, weight) are a qualifying element for retention, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3504.

On February 28, 2000, and March 9, 2000, an Advanced Notice of Proposed Rulemaking (''ANPR'') was published in the Congressional Record (144 Cong. Rec. S862 (daily ed., Feb. 28, 2000), H916 (daily ed., Mar. 9, 2000)). The ANPR identified a number of interpretative issues on which the Board sought public comment in order to assist it in proposing the substantive regulations mandated under section 4(c)(4) of VEOA. The Board had sought to obtain an array of information regarding the employment policies and practices in the various employing offices affected by VEOA. In addition, the Board sought to gain any relevant information that might aid the Board in interpreting VEOA. In response to the ANPR, the Board received two written comments, one of which was from a local unit of a labor organization and the other of which was from the national office of the same labor organization. Both comments focused on the issue of whether the term *guard* in section 3310 of 5 USC, applied by VEOA, should be interpreted to included officers and other employees of the U.S. Capitol Police. The Board received no further public input to assist it in resolving the other issues outlined in the ANPR. Therefore, the Board upon its own further research and study has decided to propose substantive regulations implementing the relevant portions of VEOA. What follows is a discussion of how the Board, tentatively at least, proposes to address the thirteen interpretative issues identified in the ANPR.

Discussion of interpretative issues

Interpretation of term ''competitive service'' and ''excepted service'' as applied to the legislative branch [Issues (1)–(7)].

The ANPR observed that VEOA confers upon covered employees the statutory rights and protections of veterans' preference in appointments to the ''competitive service.'' The ANPR also explained that veterans'' preference rights in the context of a reduction in force, as provided in the application of subchapter I of chapter 35 of title 5, USC and under VEO, are, with one exception, applicable to both the competitive service and to the excepted service. Moreover, OPM's implementing regulations regarding reductions in force, set forth in 5 CFR part 351, are couched in terms that assume application to the ''competitive service'' and the ''excepted service.'' Thus the definitions of these two terms, as applied to the legislative branch by virtue of VEOA, are central to a determination of the substantive veterans' preference rights which now apply to covered employees.

The Board received no written comments in response to a series of questions exploring how to interpret these statutory categories of Federal service. In the absence of illuminating comment or contrary definitions in VEOA, the Board believes that it must define these terms in accordance with their meaning under derivative sections of title 5, USC, made applicable by VEOA. This conclusion is supported by a directive in VEOA to issue regulations that are consistent with section 225 of the CAA (2 USC §1361), one of whose subsections embraces a rule of construction that ''definitions and exemptions in the laws made applicable by this [Congressional Accountability] Act shall apply under this [Congressional Accountability] Act.'' This section enables the Board to flesh out the meaning and scope of the various federal employment laws made applicable under the CAA by referring to their respective definitions and exemptions even though they are not expressly cited in the CAA.[4]

Section 2102 of Title 5 USC, as applied under VEOA, presents a three-fold definition of the term ''competitive service'': First, the competitive service consists of ''all civil service positions in the *executive branch*,'' with exceptions for (a) positions specifically excepted from the competitive service by statute , (b) positions requiring Senate confirmation, and (c) positions in the Senior Executive Service.[5] 5 USC §2102(a)(1)(A)–(C) (emphasis added). Second, the competitive service includes ''civil positions not in the executive branch which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(2). Third, the competitive service encompasses those ''positions in the government of the District of Columbia which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(3).

Section 2103 of Title 5 further defines the ''excepted service'' to include all ''civil service positions which are not in the competitive or the Senior Executive Service.'' 5 U.S.C. §2103. And section 2101 of that Title defines the ''civil service'' to include ''all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services.'' 5 U.S.C. §2101(1).

As applied under VEOA, it would seem that section 225 requires the Board to issue regulations that take into account the definitions (and exemptions) accompanying the civil service laws from which the rights and protections of veterans' preference are derived. Accordingly, the Notice proposes a section, in the form of a proviso, requiring that the terms ''competitive service'' and ''excepted service'' in the proposed regulations be defined in reference to their statutory meaning in Title 5, USC. Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition under section 2103, it is the position of the Board that all ''covered employees''[6] holding civil service positions in the legislative branch are within the definition of excepted service, unless otherwise designated by statute as being competitive service or Senior Executive Service positions.[7]

The Board recognizes that the adoption of these definitions, consistent with the mandate of section 225, yields an unusual result in that no ''covered employee'' in the legislative branch currently satisfies the definition of ''competitive service.'' Moreover, as the substantive protections of veterans' preference in legislative branch appointment apply only to ''competitive service'' positions, the regulations which the Board proposes regarding preference in appointment would with one noted exception, currently

[4] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 CONG. REC. S17603, S17604 (Daily Ed. Nov. 28, 1995)(in proposing the substantive regulations of the FLSA, 29 USC §201 *et seq.*, the Board cited section 225(f)(1) of the CAA as requiring the application of the FLSA definition of ''wages'' in 29 USC §203(m).

[5] These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. *See* 5 USC §3123 (a)(2), which defines the term ''Senior Executive Service position.''

[6] The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

[7] In the ANPR the Board had initially suggested that no ''covered employees'', as defined by VEOA, fall within the meaning of ''excepted service.'' Upon further review of the governing statutes, the Board herein submits that many ''covered employees'' within the legislative branch are encompassed by the term ''excepted service'' as discussed above. The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service. Consistent with the definition at section 2103 of title 5, USC, any covered employee within the legislative branch who holds a civil service position which is not in the Senior Executive Service and which is not in the competitive service is encompassed within the definition of ''excepted service.'' The regulations which the Board here proposes reflect this interpretation of the governing statutes.

apply to no one.[8] However, should Congress, by statute, hereinafter designate any civil service positions in the legislative branch as ''competitive service'' positions, then consistent with the second definition of section 2102(a)(2) and the parallel regulation proposed herein, the substantive regulations regarding veterans' preference in appointment would apply.

Authority of Board to exercise powers and responsibilities similar to that of OPM in executing, administering, and enforcing the federal service system [Issues (8)–(10)].

The ANPR contrasted the regulatory authority vested in OPM and in the Board of Directors of the Office of Compliance with respect to personnel management matters. Congress has established OPM as an independent agency in the executive branch and authorized it to exercise broad powers administering the civil service laws. See 5 U.S.C. §§1101, 1103–04, 1301–04.[9] It has a number of significant responsibilities, including the promulgating of rules and regulations that implement the various civil service laws and the classifying of positions in the executive branch for purposes of appointment, pay, and promotion. In addition, OPM exercises broad administrative powers over the competitive service, including the authority to develop and conduct examinations for the appointment of applicants into the competitive service and the authority to administer rules exempting positions from the competitive service.[10]

The ANPR concluded that VEOA does not vest the Board of Directors with authority comparable to that of OPM to execute, administer, and enforce a civil service system within the legislative branch. This is most clearly evident from the fact that VEOA did not make applicable to the Board the powers and responsibilities exercised by OPM under 5 U.S.C. §§1103–04, 1301–04, among other sections.

Insofar as the Board's authority under VEOA is not coextensive with that of OPM, the ANPR identified two legal implications. First, the Board's power to promulgate veterans' preference regulations that are the ''same as'' those of OPM may be circumscribed to some degree. To illustrate, if OPM has promulgated a regulation under the combined authority of two statutory sections, A and B, but the Board is given authority only under section A, any corresponding regulation proposed by the Board must be tailored to reflect only the standard, directive, or power of section A. Thus, some regulations of OPM may have to be adopted with modifications to reflect their narrower statutory basis. Other OPM regulations may not be adopted at all simply because the Board does not have the underlying statutory authority.

The second implication identified by the ANPR was that where the veterans' preference regulations contemplate a role by OPM,[11] the Board of Directors might not be empowered to exercise a comparable administrative role with respect to personnel matters in the legislative branch.

The Board received no written comments addressing these issues. Upon further study and reflection, the Board has concluded that the if the provisions of VEOA are to be given their plain meaning, the Board must propose only those OPM regulations, modified as necessary, that can be linked to those statutory sections whose rights and protections have been made applicable to covered employees in the legislative branch. The Board further concludes that VEOA does not vest the Board of Directors of the Office of Compliance with the broad-ranging authority to execute, administer, and enforce a civil service system in the legislative branch.[12] Accordingly, in certain of the proposed regulations the references to OPM have been deleted. To the extent that the executive branch regulations directed OPM to exercise certain responsibilities, including setting of standards, exercising review of agency determinations, and engaging in oversight, those duties have been eliminated in the proposed regulations.

Interpretation of provision restricting certain positions, including guards, to preference eligibles [Issue (11)].

With respect to ''competitive service'' positions restricted to preference eligible individuals under 5 USC §3310, as applied by VEOA, namely guards, elevator operators, messengers, and custodians, the Board sought information and comment on a series of issues, including the identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these statutory terms. A specific question was posed whether police officers and other employees of the United State Capitol Police should be considered ''guards.'' As noted previously, the only two written comments received in response to the ANPR addressed this latter issue.

Both comments argued that the term ''guard'' should not be interpreted to include officers of the U.S. Capitol Police. One comment contrasted the use of key terms within chapter 33 of Title 5, USC, which governs the examination, selection, and placement of personnel in the competitive service and from which selected provisions made applicable under VEOA to the legislative branch are drawn. Section 3310, which is made applicable by VEOA, uses the term ''guard.'' In contrast, section 3307, which addresses maximum-age requirements in the competitive service and which is not made applicable under VEOA, refers to ''law enforcement officer.'' Because of this differentiation within the same chapter of the U.S. Code, the commenter suggests that Congress could not have intended to treat a ''guard'' under section 3310 as analogous to a ''law enforcement officer.'' Since U.S. Capitol police officers have the authority of law enforcement officers (see 40 USC §§212–212a), they are not ''guards'' for purposes of section 3310 as applied.

The other comment makes a similar distinction between guards and law enforcement officers, relying upon the interpretations of OPM, which is responsible for administering the Federal government's occupation classification system. The commenter cites to two OPM publications, *Grade Evaluation Guide for Police and Security Guard Positions, GS–0083/GS–0085* and *Digest of Significant Classification Decisions and Opinions*, No. 8, April 1986. Together, these publications establish a distinction between police officers and guards in the executive branch.

The Board finds that the comments make a persuasive case for not equating officers of the U.S. Capitol Police with ''guards'' under section 3310 as applied by VEOA. The proposed rule includes a provision that explicitly excludes law enforcement officer positions of the U.S. Capitol Police from the substantive regulations implementing section 3310 as applied by VEOA.

Executive branch regulations that either should not be adopted or should be adopted with modification [Issues (12)–(13)].

The Board received no written comments addressing the questions posed in the ANPR as to which substantive regulations should not be adopted because they are based on statutory provisions that have not been made applicable under VEOA. Similarly, no comments were received on what modifications should be adopted to make the regulations more effective for the implementation of the rights and protections made applicable under VEOA.

Nevertheless, as explained above in the discussion concerning its authority to exercise powers comparable to OPM's, the Board has concluded that it may not propose regulations that are not based on statutory rights and protections made applicable under VEOA. Conversely, the Board believes that the regulations proposed in this Notice most appropriately fulfill the statutory mandate to adopt regulations that are the ''same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions'' of VEOA. To the extent that modifications are being proposed, the Board believes that they are warranted to reflect the more limited statutory authority which VEOA vests in the Board.

Special provision for coverage of Architect of the Capitol

While drafting the proposed regulations following the receipt of written comments to the ANPR, it came to the attention of the Board that the Office of the Architect of the Capitol has been under a special statutory mandate with respect to managing and supervising its human resources. Because AOC

[8] The Board proposes the potential application of the substantive regulations regarding veterans' preference in the appointment process insofar as the Office of the Architect of the Capital, pursuant to the Architect of the Capital Human Resources Act, has established a personnel management system with features analogous to the ''competitive service'' as defined in §2102(a)(2) of Title 5, USC. See Section 1.106 *infra*.

[9] *See also* 5 CFR §5.1, issued by the President, which states that the ''Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Services Rules, and all other statutes and Executive orders imposing responsibilities on the Office.''

[10] The following summary explains in part the role of the OPM in the appointment of employees to competitive service positions in executive branch agencies:

''An employee typically becomes a member of the ''competitive service'' by taking an examination administered by the Office of Personnel Management (''OPM''). See 5 U.S.C. §3304 (1976 & Supp. V 1981). An applicant who meets the minimum requirements for entrance to an examination, and who receives a rating of 70 or more on the examination, is known as an ''eligible.'' 5 C.F.R. §§210.102(b)(5), 337.101(a) (1983). OPM is required to enter on a civil service ''register'' the names of all eligibles in accordance with their numerical rankings. 5 C.F.R. §332.401 (1983).

''An agency seeking to hire an employee must submit a request to OPM for a ''certificate'' of eligibles. When OPM receives a request for certification of eligibles, it prepares a certificate by selecting names from the head of the appropriate register. This certificate consists of a sufficient number of names to permit the agency to consider three eligibles for each vacancy, 5 C.F.R. §332.402 (1983), the so-called ''rule-of-three.'' A hiring official from the agency, known as the ''appointing officer,'' 5 C.F.R. §210.102(b)(1) (1983), is obliged to fill each vacancy ''with sole regard to merit and fitness'' from the three eligibles ranking highest on the certificate who are available for appointment. 5 C.F.R. §332.404 (1983).'' *Hondros* v. *Unites States Civil Service Commission*, 720 F.2d 278, 280–82 (3d Cir. 1983) (footnotes omitted).

[11] *See, e.g.*, 5 CFR §§330.401 (OPM's role in competitive examination in restricted positions), 330.403 (OPM's role in filling restricted positions by noncompetitive action of a nonpreference eligible), 332.401 (OPM's responsibility to maintain registers of eligibles), 337.101 (OPM's role in rating applicants).

[12] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 Cong. Rec. S17603, S17604 (Daily Ed. Nov. 28, 1995)(explaining that because the CAA did not incorporate the notice posting and recordkeeping requirements of section 11 of the FLSA, 29 USC §211, the Board determined that it may not impose by substantive regulations such requirements on employing offices).

is part of the legislative branch, it has not generally been subject to many of the statutes that regulate personnel policy for Federal agencies. As a consequence, the General Accounting Office reported in 1994 that AOC's personnel system was deficient in many respects. GAO, ''Federal Personnel: Architect of the Capitol's System Needs Improvement,'' B–256160 (April 29, 1994). Congress responded by enacting the Architect of the Capitol Human Resources Act (AOCHRA). P.L. 103–283, 108 Stat. 1444 (July 22, 1994), codified at 40 U.S.C. §166b–7. This law did not directly bring the AOC within the purview of the various Federal personnel laws. Rather, the AOC was directed to establish its own personnel management system. As stated in AOCHRA, Congress found that the Architect should ''develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations,'' and to that end, the Architect was directed ''to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.'' 40 U.S.C. §166b–7(b)(1),(2). The law then sets out in broad terms eight subject areas that a model personnel management system must address, leaving it to the Architect to develop a detailed plan for implementing these model policy goals no later than fifteen months after enactment. 40 U.S.C. §166b–7(c)(2)(A)–(H), (d)(1)(B),(C). Among these objectives is the requirement that the personnel management system ''ensure[] that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of *merit* and fitness after fair and equitable consideration of all applicants and employees through *open competition*.'' 40 U.S.C. §166b–7(c)(2)(A) (emphasis added).

The notion of merit selection based on open competition, of course, is a bedrock principle of the federal civil service system, particularly its competitive service component, as described in the ANPR, 146 Cong. Rec. S864 (Daily ed. February 29, 2000)(ANPR). Thus, instead of formally placing the job positions of the Architect's Office within the federal competitive service, which is contemplated under 5 U.S.C. §2101(a)(2),[13] Congress authorized the Architect's Office to devise its own personnel system independent of the competitive service (and of the oversight responsibilities of the Office of Personnel Management) but consistent with its animating principles.

AOCHRA did not specifically mandate that the Architect's Office incorporate veterans' preference principles into its merit selection system. And there is nothing in the public record to indicate that the AOC in practice affords qualified veterans some form of preference in the selection process. However, it seems equally true that there is nothing in AOCHRA to preclude the Architect from taking veterans' preference into account in making appointments, promotions, and assignments, the same way that an executive branch agency must afford veterans' preference to appointments to positions in the competitive service. Thus, the issue arises whether VEOA may be read *in pari materia* with AOCHRA, so as to make the substantive VEOA regulations concerning appointments applicable to AOC's merit selection system notwithstanding the fact that job positions subject to that system are not technically part of the ''competitive service.''

As noted above, the Board has tentatively concluded that it must limit the application of the substantive, veterans' preference appointment regulations to those legislative branch positions that are within the ''competitive service,'' as the latter term is defined in 5 U.S.C. §2102. As a practical matter, this may significantly limit the group of ''covered employees'' who will benefit from VEOA, since it appears that the vast majority of ''covered employees'' hold civil service positions in the legislative branch, including those in the Office of AOC, that are within the definition of excepted service.

However, the congressional policy declared in the enactment of AOCHRA may warrant the promulgation of a special regulation tailoring the application of the VEOA appointment regulations to positions in Office of the AOC, for it is a general rule of statutory construction that statutes on the same subject matter are to be construed together.[14] In this case, the specific obligations under VEOA to afford veterans' preference in connection with merit appointments would be interpreted in conjunction with the preexisting, general obligations under AOCHRA to establish a merit selection personnel system. If read together, the two statutes would seem to authorize the application of substantive VEOA regulations, at least those governing appointments, insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.[15]

The Board has made no final determination on the soundness of this interpretation, in part due the fact that this has insufficient information on the elements of the merit selection system which the AOC has established under AOCHRA. The Board therefore believes that it is appropriate to solicit comments on what are the elements of the AOC's current merit selection system established under 40 U.S.C. §166b–7(c)(2)(A), and on whether in particular the AOC has a policy of giving preference to qualified veterans. Aside from the factual issue, the Board believes that comments should be solicited on the legal issue whether VEOA may be interpreted *in pari materia* with AOCHRA. In addition, the Board invites comments on the related question of how substantive regulations promulgated under VEOA may be applied to AOC's personnel management system, even assuming that it currently does not include a veterans' preference component, being mindful that the Board is authorized under VEOA to propose modifications for the more effective implementation of the rights and protections under VEOA. 2 U.S.C. §1316a(c)(4)(B).

In order to frame the issues for comment, the Board has decided to include in this NPR a proposed new section §1.106, which would apply the appointment regulations governing veterans' preference to appointments made pursuant to the merit selection system under AOCHRA. This section would apply the proposed regulations notwithstanding the fact that the job positions within the AOCHRA merit selection system are not technically within the ''competitive service.'' Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol would be required to afford to a covered employee, including an applicant veterans' preference, in a manner and to the extent consistent with these proposed regulations.

Recommended Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 13th day of November, 2001.

SUSAN S. ROBFOGEL,
Chair of the Board,
Office of Compliance.

EXTENSION OF RIGHTS AND PROTECTIONS RELATING TO VETERANS' PREFERENCE UNDER TITLE 5, UNITED STATES CODE, TO COVERED EMPLOYEES OF THE LEGISLATIVE BRANCH (SECTION 4(C) OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Exclusion
1.104 Adoption of regulations
1.105 Coordination with Section 225 of Congressional Accountability Act
1.106 Application of regulations to certain positions of the Office of the Architect of the Capitol

§ 1.101. Purpose and scope

(a) *Section 4(c) of the VEOA.* The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 USC, to covered employees within the legislative branch.

(b) *Purpose and scope of regulations.* The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA.

§ 1.102. Definitions

Except as otherwise provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *VEOA* means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(c) Except as provided by §1.103, the term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

[13] ''The 'competitive service' consists of—. . .''(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;''

[14] N. Singer, Statutes and Statutory Construction §51.02, at 176–178 (6th ed. 2000). See, e.g., *United States* v. *Stewart*, 311 U.S. 60 (1940) (''It is clear that 'all acts in pari materia are to be taken together, as if they were one law.' '').

[15] CF. *United States* v. *Jefferson Electric Mfg. Co.*, 291 U.S. 386, 396 (1934) (''As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and the carried into effect comformably to it, excepting as a different purpose is plainly shown.'').

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) *Board* means the Board of Directors of the Office of Compliance.

(k) *Office* means the Office of Compliance.

(l) *General Counsel* means the General Counsel of the Office of Compliance.

(m) The term *agency* means employing office as defined by subsection (i).

§ 1.103. Exclusions from definition of covered employee

The term *covered employee* does not include an employee

(a) whose appointment is made by the President with the advice and consent of the Senate;

(b) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or,

(c) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

§ 1.104. Authority of the Board

(a) *Adoption of regulations.* Section 4(c)(4)(A) of VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, 4(c)(4)(B) of VEOA directs the Board to promulgate regulations that are ''the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA that need be adopted.

(b) *Technical and nomenclature changes.* In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the executive branch. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the executive branch from which they are derived except to the extent that a modification is necessary to more effectively implement the rights and protections made applicable under VEOA.

(c) *Modification of substantive regulations.* As a qualification of the statutory obligation to issue regulations that are ''the same as the most substantive regulations (applicable with respect to the executive branch),'' section 4(c)(4)(B) of VEOA authorizes the Board to ''determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under'' section 4(c) of VEOA. In examining the relevant regulations of the executive branch, which were promulgated by the Office of Personnel Management, the Board has concluded that a number of sections were issued under a combination of statutory authorities, some of which were made applicable under section 4(c)(2) of VEOA and some of which were not made applicable under that section. The Board has accordingly determined that given the selective application of statutory provisions, some regulations of the executive branch are not applicable to the legislative branch and some regulations must be modified in order to be made applicable.

(d) *Retention of section numbering.* Except for the sections in Part 1, the regulations adopted herein are numbered to correspond with the section numbering of the substantive regulations of the executive branch as they appear in title 5 of the Code of Federal Regulations (CFR) on which they are based.

§ 1.105. Coordination with Section 225 of Congressional Accountability Act

(a) *Statutory directive.* Section 4(c)(4)(D) of the VEOA requires that regulations promulgated must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be construed to authorize enforcement of the CAA by the executive branch.

(b) *Provisos necessary to satisfy statutory directive.* The Board determines that in order for certain regulations applied under VEOA to be consistent with subsections (f)(1) and (f)(3) of section 225 of the CAA, the such regulations shall be subject to the following provisos:

(1) Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC § 2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC § 2103.

(2) Where an applied regulation refers to the ''excepted service,'' such term shall have the meaning as provided in 5 USC § 2103. Consistent with the definition provided by section 2103, the Board determines that ''excepted service'' encompasses all civil service positions within the legislative branch which are neither in the ''competitive service'' nor have duties that are equivalent to the Senior Executive Service as those terms are defined in Title 5, USC.

§ 1.106. Application of regulations to certain positions of the Office of the Architect of the Capitol

(a) The Office of the Architect of the Capitol, pursuant to the provisions of the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103–283, 108 Stat. 1444 (July 22, 1994), as codified and amended in 40 USC § 166b–7, is required to establish a personnel management system that in part ''ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.'' 40 USC § 166b–7(c)(2)(A).

(b) Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol shall provide veterans' preference to a covered employee, including an applicant, in a manner and to the extent consistent with these regulations.

PART 211—VETERAN PREFERENCE

Sec.
211.101 Purpose
211.102 Definitions
211.103 Administration of preference

§ 211.101. Purpose

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment in the legislative branch. (5 U.S.C. 2108, as applied by VEOA)

§ 211.102. Definitions

For purposes of preference in Federal employment the following definitions apply:

(a) Veteran means a person who was separated with an honorable discharge or under honorable conditions from active duty in the armed forces performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or,

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976.

(b) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(c) Preference eligible means veterans, spouses, widows, or mothers who meet the definition of ''preference eligible'' in 5 U.S.C. 2108. Preference eligibles in the competitive service are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force in positions in either the competitive service or in the excepted service (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

§ 211.103. Administration of preference

Agencies are responsible for making all preference determinations.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL) IN THE COMPETITIVE SERVICE

Sec.
330.401 Competitive examination
330.402 Direct recruitment

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401. Competitive examination

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger in the competitive service (referred to hereinafter in this subpart as restricted positions), competition shall be restricted to preference eligibles as long as preference eligibles are available. For purposes of this part, the term *guard* does not include law enforcement officer positions of the U.S. Capitol Police Board.

§ 330.402. Direct recruitment

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

PART 332—RECRUITMENT AND SELECTION IN THE COMPETITIVE SERVICE THROUGH COMPETITIVE EXAMINATION

Sec.
332.401 Order on registers

Subpart D—Consideration for Appointment

§ 332.401. Order on registers

Subject to apportionment, residence, and other requirements of law, the names of eligibles shall be entered on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in pay positions comparable to GS–9 and above and in comparable pay levels under other pay-fixing authorities.

PART 337—EXAMINING SYSTEM FOR THE COMPETITIVE SERVICE

Sec.
Sec. 337.101 Rating applicants

Subpart A—General Provisions

§ 337.101. Rating applicants

(a) The relative weights shall be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) There shall be added to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; as applied by VEOA and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)–(G) of that title, as applied by VEOA.

(c) When experience is a factor in determining eligibility, a preference eligible shall be credited with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. Time spent in the military service shall be credited according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS IN THE COMPETITIVE SERVICE

Sec.
Sec. 339.204 Waiver of standards and requirements

Subpart B—Physical and Medical Qualifications

§ 339.204. Waiver of standards and requirements

Agencies must waive a medical standard or physical requirement when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others.

PART 351—REDUCTION IN FORCE IN THE COMPETITIVE SERVICE AND THE EXCEPTED SERVICE

Sec.
351.201 Use of regulations
351.202 Coverage
351.203 Definitions
351.204 Responsibility of agency
351.301 Applicability
351.302 Transfer of employees
351.303 Identification of positions with a transferring function
351.401 Determining retention standing
351.402 Competitive area
351.403 Competitive level
351.404 Retention register
351.405 Demoted employees
351.501 Order of retention—competitive service
351.502 Order of retention—excepted service
351.503 Length of service
351.504 Credit for performance
351.505 Records
351.506 Effective date of retention standing
351.601 Order of release from competitive level
351.602 Prohibitions
351.603 Actions subsequent to release from competitive level
351.604 Use of furlough
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351.606 Mandatory exceptions
351.607 Permissive continuing exceptions
351.608 Permissive temporary exceptions
351.701 Assignment involving displacement
351.702 Qualifications for assignment
351.703 Exception to qualifications
351.704 Rights and prohibitions
351.705 Administrative assignment
351.801 Notice period
351.802 Content of notice
351.803 Notice of eligibility for reemployment and other placement assistance
351.804 Expiration of notice
351.805 New notice required
351.806 Status during notice period
351.807 Certification of Expected Separation
351.902 Correction by agency

Subpart B—General Provisions

§ 351.201. Use of regulations

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

§ 351.202. Coverage

(a) *Employees covered*. Except as provided in paragraph (b) of this section, this part applies to covered employees as defined by section 1.102(c) of these Regulations.

(b) *Employees excluded*. This part does not apply to an employee who is within the exclusion set forth in section 1.103 of these Regulations.

(c) *Actions excluded*. This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

(3) A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days. This exception ends at the completion of the reduction in force.

(4) Placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

(5) A change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in Sec. 351.201(a)(2) is covered by this part.)

§ 351.203. Definitions

In this part:

Competing employee means an employee in tenure group I, II, or III.

Current rating of record is the rating of record for the most recently completed appraisal period as provided in Sec. 351.504(b)(3).

Days means calendar days.

Function means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

Furlough under this part means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but not more than 1 year.

Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record means the officially designated performance rating, as provided for in the agency's appraisal system.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

§ 351.204. Responsibility of agency

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction in force is necessary.

Subpart C—Transfer of Function

§ 351.301. Applicability

(a) This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, reorganization plan, or other authority.

(b) In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

§ 351.302. Transfer of employees

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR part 752 if it chooses to separate an employee who declines to transfer from his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

(f) An agency may not separate an employee who declines to transfer with the function any sooner than it transfers employees who chose to transfer with the function to the gaining competitive area.

(g) Agencies may ask employees in a canvass letter whether the employee wishes to transfer with the function when the function transfers to a different local commuting area. The canvass letter must give the employee information concerning entitlements available to the employee if the employee accepts the offer to transfer, and if the employee declines the offer to transfer. An employee may later change and initial acceptance offer without penalty. However, an employee may not later change an initial declination of the offer to transfer.

§ 351.303. Identification of positions with a transferring function

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. A competing employee is identified with the transferring function on the basis of the employee's official position. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(3) In determining what percentage of time an employee performs a function in the employee's official position, the agency may supplement the employee's official position description by the use of appropriate records (e.g., work reports, organizational time logs, work schedules, etc.).

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

Subpart D—Scope of Competition

§ 351.401. Determining retention standing

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in subpart E of this part.

§ 351.402. Competitive area

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

§ 351.403. Competitive level

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in

duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

(2) Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) *By service.* Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) *By appointment authority.* Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) *By pay schedule.* Separate levels shall be established for positions under different pay schedules.

(4) *By work schedule.* Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) *By trainee status.* Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in Sec. 351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

§ 351.404. Retention register

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level by temporary or term promotion.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph b(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 in this chapter.

§ 351.405. Demoted employees

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501. Order of retention—competitive service

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under Sec. 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. An employee who acquires competitive status and satisfies the service requirement for career tenure when the employee's position is brought into the competitive service is in group I as soon as the employee completes any required probationary period for initial appointment.

(2) Group II includes each career-conditional employee, and each employee serving a probationary period.

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA.

§ 351.502. Order of retention—excepted service

(a) Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as set forth under Sec. 351.501(a) for competing employees in the competitive service.

(b) Groups are defined as follows:

(1) Group I includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period.

(2) Group II includes each employee:

(i) Serving a trial period; or

(ii) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

(3) Group III includes each employee:

(i) Whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent;

(ii) Whose appointment has a specific time limitation of more than 1 year; or

(iii) Who is currently employed under a temporary appointment limited to 1 year or less, but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

§ 351.503. Length of service

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under Sec. 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under Sec. 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§351.504. Credit for performance

(a) *Ratings used.* Only ratings of record as defined in Sec. 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(b)(1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4–year period prior to the date of issuance of reduction in force notices, except as otherwise provided in paragraphs (b)(2) and (c) of this section.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the 4–year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures, and must also be on record (i.e., the rating of record is available

for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4–year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the 4–year period prior to the date of issuance of reduction in force notices or the 4–year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined as appropriate, and as follows:

(1) An employee who has not received any rating of record during the 4–year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4–year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two (and rounded in the case of a fraction to the next higher whole number) to determine the amount of additional retention service credit. If an employee has received only one actual rating of record during the period, its value is the amount of additional retention service credit provided.

§ 351.505. Records

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by an employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§ 351.506. Effective date of retention standing

Except for applying the performance factor as provided in Sec. 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in Sec. 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee retained in a competitive level as an exception under Sec. 351.606(b), Sec. 351.607, or Sec. 351.608, is determined as of the date the employee would have been released had the exception not been used. The retention standing of each employee retained under any of these provisions remains fixed until completion of the reduction in force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§ 351.601. Order of release from competitive level

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under Sec. 351.606 when an employee is retained under a mandatory exception or under Sec. 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under Sec. 351.607 when an employee is retained under a permissive continuing exception or under Sec. 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.602. Prohibitions

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion.

§ 351.603. Actions subsequent to release from competitive level

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

§ 351.604. Use of furlough

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with highest standing employee.

§ 351.605. Liquidation provisions

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with Sec. 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in Sec. 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply Secs. 351.607 and 351.608 in a liquidation.

Sec. 351.606. Mandatory exceptions

(a) Armed Forces restoration rights. When an agency applies Sec. 351.601 or Sec. 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) Use of annual leave to reach initial eligibility for retirement or continuance of health benefits. (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse action, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(3) An employee retained under paragraph (b) this section must be covered by chapter 63 of title 5, United States Code.

(4) An agency may not retain an employee under this section past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(5) Except as permitted by 5 CFR 351.608(d), an agency may not approve an employee's use of any other type of leave after the employee has been retained under a temporary exception authorized by paragraph (b) of this section.

(6) Annual leave for purposes of paragraph (b) of this section is described in Sec. 630.212 of Title 5, CFR.

(c) Documentation. Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by Sec. 351.601 or Sec. 351.605.

§ 351.607. Permissive continuing exceptions

An agency may make exception to the order of release in Sec. 351.601 and to the action provisions of Sec. 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608. Permissive temporary exceptions

(a) *General.* (1) In accordance with this section, an agency may make a temporary exception to the order of release in Sec. 351.601, and to the action provisions of Sec. 351.603, when needed to retain an employee after the effective date of a reduction in force. Except as otherwise provided in paragraphs (c) and (e) of this section, an agency may not make a temporary exception for more than 90 days.

(2) After the effective date of a reduction in force action, an agency may not amend or cancel the reduction in force notice of an employee retained under a temporary exception so as to avoid completion of the reduction in force action.

(b) *Undue interruption*. An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation*. An agency may make a temporary exception to satisfy a Government obligation to the retained employee without regard to the 90–day limit set forth under paragraph (a)(1) of this section.

(d) *Sick leave*. An agency may make a temporary exception to retain on sick leave a lower standing employee covered by an applicable leave system for Federal employees, who is on approved sick leave on the effective date of the reduction in force, for a period not to exceed the date the employee's sick leave is exhausted. Use of sick leave for this purpose must be in accordance with the requirements in part 630, subpart D of this chapter (or other applicable leave system for Federal employees). An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (d).

(e)(1) An agency may make a temporary exception to retain on accrued annual leave a lower standing employee who:

(i) Is being involuntarily separated under this part;

(ii) Is covered by a Federal leave system under authority other than chapter 63 of title 5, United States Code; and,

(iii) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority), and/or establish eligibility under 5 U.S.C. 8905 (or other authority) to carry health benefits coverage into retirement during the period represented by the amount of the employee's accrued annual leave.

(2) An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (e).

(3) This exception may not exceed the date the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(4) Accrued annual leave includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. When approving a temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status.

(f) *Other exceptions*. An agency may make a temporary exception under this section to extend an employee's separation date beyond the effective date of the reduction in force when the temporary retention of a lower standing employee does not adversely affect the right of any higher standing employee who is released ahead of the lower standing employee. The agency may establish a maximum number of days, up to 90 days, for which an exception may be approved.

(g) *Notice to employees*. When an agency approves an exception for more than 30 days, it must:

(1) Notify in writing each higher standing employee in the same competitive level reached for release of the reasons for the exception and the date the lower standing employee's retention will end; and

(2) List opposite the employee's name on the retention register the reasons for the exception and the date the employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement

(a) General. When a group I or II competitive service employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. The offered position shall be in the same competitive area, last at least 3 months, and have the same type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) as the position from which the employee is released. Upon accepting an offer of assignment, or displacing another employee under this part, an employee retains the same status and tenure in the new position. The promotion potential of the offered position is not a consideration in determining an employee's right of assignment.

(b) Lower subgroup—bumping. A released employee shall be assigned in accordance with paragraph (a) of this section and bump to a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group; and

(2) Is no more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) Same subgroup—retreating. A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup;

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in Sec. 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

(d) Limitation. An employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating of record no higher than minimally successful (Level 2) or equivalent.

(e) Pay rates. (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force, assignment rights shall be determined on the basis of the new pay rates.

(f)(1) In determining applicable grades (or grade intervals) under Secs. 351. 701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS–2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

§351.702. Qualifications for assignment

(a) Except as provided in Sec. 351.703, an employee is qualified for assignment under Sec. 351.701 if the employee:

(1) Meets the standards and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption. This determination includes recency of experience, when appropriate.

(b) An employee who is released from a competitive level during a leave of absence because of a corpensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury.

(c) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the employee of the reasons for the determination.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen

through standard selection procedures. To be considered qualified for assignment under Sec. 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e)(1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§351.703. Exception to qualifications

An agency may assign an employee to a vacant position under Sec. 351.201(b) or Sec. 351.701 of this part if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§351.704. Rights and prohibitions

(a)(1) An agency may satisfy an employee's right to assignment under Sec. 351.701 by assignment to a vacant position under Sec. 351.201(b), or by assignment under any applicable administrative assignment provisions of Sec. 351.705, to a position having a representative rate equal to that the employee would be entitled under Sec. 351.701. An agency may also offer an employee assignment under Sec. 351.201(b) to a vacant position in lieu of separation by reduction in force under 5 CFR part 351. Any offer of assignment under Sec. 351.201(b) to a vacant position must meet the requirements set forth under Sec. 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section 351.701 does not:

(1) Authorize or permit an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

(4) Authorize or permit an agency to assign a competing employee to a temporary position (i.e., a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force under this part when the employee has no right to a position under Sec. 351.701 or Sec. 351.704(a)(1) of this part. This option does not preclude an agency from, as an alternative, also using a temporary position to reemploy a competing employee following separation by reduction in force under this part.

(5) Authorize or permit an agency to displace an employee or to satisfy a competing employee's right to assignment by assigning the employee to a position with a different type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) than the position from which the employee is released.

§351.705. Administrative assignment

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with Sec. 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee is subgroup III–B consistent with Sec. 351.701; or

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under Sec. 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§351.801. Notice period

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), as applied by the CAA, of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of Secs. 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, an agency may provide a notice period of less than 60 days, but the shortened notice period must cover at least 30 full days before the effective date of release.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under Sec. 351.607 or Sec. 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802. Content of notice

(a)(1) The action to be taken, the reasons for the action, and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under Sec. 351.607 or Sec. 351.608;

(5) Information on reemployment rights, except as permitted by Sec. 351.803(a); and

(6) The employee's right, as applicable, to grieve under a negotiated grievance procedure.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of retention regulations found in part 351 of this chapter.

§ 351.803. Notice of eligibility for reemployment and other placement assistance

(a) The employee must be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area);

(2) The effective date of the separations.

§ 351.804. Expiration of notice

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

§ 351.805. New notice required

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give an employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

§ 351.806. Status during notice period

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§351.807. Certification of Expected Separation

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes,

with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

Subpart I—Appeals and Corrective Action

§ 351.902. Correction by agency

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4736. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Assessment of Fees [Docket No. 01–23] (RIN: 1557–ACOO) received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4737. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule—Rehabilitation Short-Term Training—received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4738. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

4739. A letter from the Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Additional Designations and Removal of Persons Listed in Appendix A to 31 CFR Chapter V and Appendix I to 31 CFR Part 539, Weapons of Mass Destruction Trade Control Regulations—received November 14, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4740. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Montana Regulatory Program [SPATS No. MT–022–FOR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4741. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Utah Regulatory Program [SPATS No. UT–037–FOR] received November 29, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4742. A letter from the Acting Director, Office of Surface Mining, Department of Interior, transmitting the Department's final rule—Illinois Regulatory Program [SPATS No. IL–100–FOR] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4743. A letter from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Civil Penalty Adjustments (RIN: 1029–ACOO) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4744. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Written and Oral Information or Statements Affecting Entitlement to Benefits (RIN: 2900–AK25) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4745. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Written and Oral Information or Statements Affecting Entitlement to Benefits (RIN: 2900–AK25) received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4746. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses (RIN: 2900–AK98) received November 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4747. A letter from the Director, Office of Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting the Department's final rule—Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses (RIN: 2900–AK98) received November 30, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4748. A letter from the Chair of the Board, Office of Compliance, transmitting notice of proposed rulemaking for publication in the CONGRESSIONAL RECORD, pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 and section 304(b) of the Congressional Accountability Act of 1995; jointly to the Committees on Education and the Workforce and House Administration.

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. HANSEN: Committee on Resources. H.R. 38. A bill to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes; with an amendment (Rept. 107–325). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2742. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma (Rept. 107–326). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2234. A bill to revise the boundary of the Tumacacori National Historical Park in the State of Arizona; with an amendment (Rept. 107–327). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee of Conference. Conference report on H.R. 2883. A bill to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 107–328). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HAYWORTH:

H.R. 3420. A bill to direct the Secretary of the Treasury to issue appropriate guidance for use by victims of disasters in their application to charitable organizations for relief; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH:

H.R. 3421. A bill to provide adequate school facilities within Yosemite National Park, and for other purposes; 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. DEFAZIO:

H.R. 3422. A bill to establish a Congressional Trade Office; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. BILIRAKIS, Mr. BUYER, Mr. SIMPSON, Mr. BAKER, Mr. SIMMONS, Mr. WOLF, and Mr. TOM DAVIS of Virginia):

H.R. 3423. A bill to amend title 38, United States Code, to enact into law eligibility of certain veterans and their dependents for burial in Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. CALVERT (for himself, Mr. KANJORSKI, Mr. LATOURETTE, Ms. WATERS, Mr. LEWIS of California, Mr. SHERMAN, Mr. CANTOR, Mr. FORD, Mr. HOBSON, Mr. SANDLIN, Mr. SAXTON, Mr. ANDREWS, Mr. REYNOLDS, Mr. BARCIA, Mr. WAMP, Ms. BALDWIN, Mr. ISAKSON, Mr. TOWNS, Mr. RILEY, Mr. DEUTSCH, Mrs. JO ANN DAVIS of Virginia, Mr. RODRIGUEZ, Mrs. BONO, Mr. PASCRELL, Mr. STUMP, Mr. ROTHMAN, Mr. KINGSTON, Ms. MCKINNEY, Mr. FOLEY, Mr. HOLDEN, Mr. GREEN of Texas, Ms. DEGETTE, and Mrs. CAPITO):

H.R. 3424. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly,

in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Financial Services.

By Mr. RADANOVICH:

H.R. 3425. A bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing Highway 49 in California, known as the ''Golden Chain Highway'', as a National Heritage Corridor; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself and Mr. WELDON of Pennsylvania):

H.R. 3426. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Government Reform.

By Mr. LANTOS (for himself, Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. BERMAN, Mr. PITTS, Mr. FALEOMAVAEGA, Mrs. JO ANN DAVIS of Virginia, Mr. PAYNE, Mr. CROWLEY, Mr. HOEFFEL, Mrs. NAPOLITANO, Ms. LEE, Mr. MEEKS of New York, Mr. WEXLER, Mr. ROHRABACHER, and Ms. MILLENDER-MCDONALD):

H.R. 3427. A bill to provide assistance for the relief and reconstruction of Afghanistan, and for other purposes; to the Committee on International Relations.

By Mr. LATOURETTE (for himself, Mr. KUCINICH, Mrs. JONES of Ohio, and Mr. TRAFICANT):

H.R. 3428. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act; to the Committee on Financial Services.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. BORSKI, Mr. LATOURETTE, Mr. EHLERS, Mr. GRAVES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. MASCARA, Mr. HOLDEN, Mr. RAHALL, Mr. HONDA, Mr. PASCRELL, Mr. LARSEN of Washington, Mr. COSTELLO, Mr. MCGOVERN, Mr. FILNER, and Ms. MILLENDER-MCDONALD):

H.R. 3429. A bill to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BILIRAKIS:

H.R. 3430. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war; to the Committee on Veterans' Affairs.

By Mrs. CAPPS (for herself, Mr. PICKERING, Mr. DINGELL, Mr. GREENWOOD, Mr. BROWN of Ohio, Mr. SHIMKUS, Mr. WAXMAN, Mr. FOLEY, Mr. STARK, Mr. NORWOOD, Mr. RANGEL, Ms. DUNN, Mr. TOWNS, Mr. WICKER, Mr. KENNEDY of Rhode Island, Mr. PLATTS, Mr. FARR of California, Mr. BAKER, Mr. ENGEL, Mr. CUNNINGHAM, Mr. GREEN of Texas, Mr. CALVERT, Mrs. MCCARTHY of New York, Mr. WAMP, Mr. SERRANO, Mr. WOLF, Mr. GUTIERREZ, Mr. THUNE, Mr. MEEKS of New York, Mr. DICKS, Mr. LANTOS, Mr. WYNN, Mr. JEFFERSON, Mr. MCGOVERN, Mr. MCNULTY, Ms. MCCOLLUM, Mr. ACKERMAN, Mr. BALDACCI, Mr. PALLONE, Mr. MARKEY, Mr. ISRAEL, Mrs. CHRISTENSEN, Ms. WATSON, Mr. HOLT, Mr. MATSUI, Mr. LIPINSKI, Ms. CARSON of Indiana, Mr. PRICE of North Carolina, Ms. LEE, Mr. KIND, Mr. MOORE, Ms. ESHOO, Ms. HARMAN, Mr. FILNER, Mr. STENHOLM, Mr. FROST, Mr. JACKSON of Illinois, Ms. SCHAKOWSKY, Mr. PASCRELL, Mrs. TAUSCHER, Ms. MCKINNEY, Mr. OBERSTAR, Mr. UDALL of New Mexico, Mr. INSLEE, Mr. DAVIS of Florida, Ms. DEGETTE, Mr. HALL of Texas, Mr. DAVIS of Illinois, Mr. ABERCROMBIE, Mr. GORDON, Mr. POMEROY, and Mr. RUSH):

H.R. 3431. A bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke; to the Committee on Energy and Commerce.

By Mr. COOKSEY:

H.R. 3432. A bill to require that the Coast Guard Sea Marshal program be carried out in the 20 ports in the United States considered by the Secretary of Transportation to be the most vulnerable to attack by use of a commercial vessel as a terrorist instrument, to authorize additional personnel and funds for such program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TOM DAVIS of Virginia (for himself, Mr. MORAN of Virginia, Mr. WOLF, Mrs. JO ANN DAVIS of Virginia, and Ms. NORTON):

H.R. 3433. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon (for herself, Mr. WU, Mr. WALDEN of Oregon, Mr. BLUMENAUER, Mr. DEFAZIO, and Mr. BAIRD):

H.R. 3434. A bill to authorize the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon City, Oregon, and to administer the site as a unit of the National Park System, and for other purposes; to the Committee on Resources.

By Mrs. MALONEY of New York (for herself, Mr. STUPAK, Mr. ANDREWS, Mrs. MCCARTHY of New York, Ms. HOOLEY of Oregon, Mr. MCNULTY, Mr. SNYDER, Mr. MALONEY of Connecticut, Mr. GUTIERREZ, Mr. WYNN, Mr. FROST, Mr. MURTHA, and Mr. OWENS):

H.R. 3435. A bill to provide for grants to local first responder agencies to combat terrorism and be a part of homeland defense; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD:

H.R. 3436. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to treat certain National Guard duty as military service under that Act; to the Committee on Veterans' Affairs.

By Mr. SHAW (for himself, Mr. CARDIN, Mr. PALLONE, Mr. DEUTSCH, Ms. ROS-LEHTINEN, Mr. GOODE, Mr. FILNER, Mr. EHLERS, Mr. GRUCCI, Mr. HASTINGS of Florida, Mr. SOUDER, Mr. CALVERT, Mr. DAVIS of Florida, Mr. WELDON of Florida, Mr. GREEN of Wisconsin, and Mr. BROWN of South Carolina):

H.R. 3437. A bill to amend the Merchant Marine Act, 1936 to establish a program to ensure greater security for United States Seaports, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, 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. SIMPSON (for himself, Mr. OTTER, and Mr. REHBERG):

H.R. 3438. A bill to authorize the State committees appointed to carry out agricultural credit programs under the Consolidated Farm and Rural Development Act to permit the emergency commercial use of land enrolled in the conservation reserve program; to the Committee on Agriculture.

By Mr. WATKINS:

H.R. 3439. A bill to authorize the President to present a gold medal on behalf of the Congress to the Choctaw Code Talkers in recognition of their contributions to the Nation, and for other purposes; to the Committee on Financial Services.

By Mr. SHAW:

H. Con. Res. 282. Concurrent resolution expressing the sense of Congress that the Social Security promise should be kept; to the Committee on Ways and Means.

By Mr. SHOWS:

H. Con. Res. 283. Concurrent resolution expressing the sense of Congress that Parker Dykes deserves to be recognized for his years of commitment to football and his community and is extremely worthy of the award of National Junior College Coach of the Year; to the Committee on Education and the Workforce.

By Mr. SHOWS (for himself, Mr. FROST, Mr. GIBBONS, Mr. GILMAN, Mr. GRUCCI, Ms. HART, Mr. MCGOVERN, Mr. PASCRELL, Mr. PLATTS, Ms. ROS-LEHTINEN, Mr. STEARNS, and Mr. WEXLER):

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress that the Secretary of Veterans Affairs should provide the flag of the United States for placement on the grave sites of recipients of the Medal of Honor; to the Committee on Veterans' Affairs.

By Ms. SLAUGHTER (for herself, Ms. DEGETTE, Mr. GREENWOOD, and Mrs. MORELLA):

H. Con. Res. 285. Concurrent resolution condemning the more than 500 anthrax threats sent to reproductive health centers and abortion providers since October 14, 2001; to the Committee on the Judiciary.

By Mr. GRUCCI:

H. Res. 308. A resolution expressing the sense of the House of Representatives regarding the establishment of a National Motivation and Inspiration Day; to the Committee on Government Reform.

By Ms. LEE (for herself, Mr. SHIMKUS, Mr. NEY, and Mr. HOYER):

H. Res. 309. A resolution honoring the United States Capitol Police for their commitment to security at the Capitol; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. SHIMKUS.
H.R. 286: Ms. LOFGREN.
H.R. 292: Ms. RIVERS.
H.R. 303: Mr. GEKAS.
H.R. 331: Mr. FLAKE.
H.R. 439: Mr. DIAZ-BALART.
H.R. 440: Mr. DIAZ-BALART.
H.R. 442: Ms. HOOLEY of Oregon.
H.R. 535: Mr. LINDER.
H.R. 760: Mr. SOUDER.
H.R. 1143: Ms. MCCOLLUM.
H.R. 1155: Ms. WATERS.
H.R. 1172: Mr. CHAMBLISS.
H.R. 1212: Mr. BACA.
H.R. 1296: Mr. SMITH of New Jersey.
H.R. 1305: Mr. STEARNS.
H.R. 1351: Mr. ROGERS of Michigan
H.R. 1353: Mr. BLUNT and Mr. ABERCROMBIE.
H.R. 1377: Mr. WATTS of Oklahoma.
H.R. 1405: Ms. CARSON of Indiana.
H.R. 1433: Mr. OWENS.

H.R. 1455: Mr. HAYWORTH.
H.R. 1464: Mr. ACKERMAN.
H.R. 1522: Mr. LUCAS of Kentucky.
H.R. 1527: Mr. SUNUNU and Mr. AKIN.
H.R. 1577: Mr. GANSKE and Mr. BONIOR.
H.R. 1649: Ms. LOFGREN.
H.R. 1733: Mr. WYNN, Mr. LANTOS, and Mr. PASTOR.
H.R. 1773: Mr. SOUDER.
H.R. 1795: Mr. VITTER.
H.R. 1810: Ms. CARSON of Indiana.
H.R. 1822: Mr. BAIRD.
H.R. 1935: Mr. ISRAEL, Mr. STEARNS, and Mr. GOODLATTE.
H.R. 1948: Mr. KLECZKA.
H.R. 1984: Mr. PAYNE.
H.R. 2071: Mr. DIAZ-BALART.
H.R. 2117: Mr. WATKINS.
H.R. 2162: Mr. ACEVEDO-VILA and Mr. BECERRA.
H.R. 2173: Mr. HILLIARD and Mr. PALLONE.
H.R. 2284: Mr. GOODLATTE.
H.R. 2348: Mr. GEPHARDT, Mr. EVANS, and Mr. BLAGOJEVICH.
H.R. 2352: Mrs. MINK of Hawaii.
H.R. 2357: Mr. REYNOLDS and Mr. TOM DAVIS of Virginia.
H.R. 2372: Mr. LEACH.
H.R. 2374: Mr. COLLINS.
H.R. 2380: Ms. MCCARTHY of Missouri and Mr. ACKERMAN.
H.R. 2442: Ms. LEE.
H.R. 2576: Mr. HINOJOSA and Mr. RAMSTAD.
H.R. 2618: Mr. NEAL of Massachusetts.
H.R. 2629: Mr. HUNTER and Mr. WEXLER.
H.R. 2709: Mr. DELAHUNT.
H.R. 2714: Mr. HASTINGS of Washington.
H.R. 2735: Mr. GOODLATTE.
H.R. 2908: Mrs. NAPOLITANO, Mr. WYNN, and Mr. PASCRELL.
H.R. 2955: Mr. MALONEY of Connecticut.
H.R. 3020: Mr. FERGUSON.
H.R. 3054: Mrs. CHRISTENSEN, Ms. RIVERS, Mr. MCHUGH, Mrs. KELLY, Ms. WATERS, Mr. UDALL of New Mexico, Mr. JEFFERSON, Mr. TANNER, Mr. TURNER, Mrs. DAVIS of California, Mr. HONDA, Ms. JACKSON-LEE of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. NORTON, Ms. PELOSI, Ms. SOLIS, Mrs. TAUSCHER, Mr. EVANS, Mr. ACKERMAN, Mr. STRICKLAND, Mr. BECERRA, Mr. KENNEDY of Rhode Island, Mr. MALONEY of Connecticut, Mr. PAYNE, Mr. TANCREDO, and Mr. SANDLIN.
H.R. 3058: Mr. HONDA, Mr. PASCRELL, Mr. GRUCCI, and Mr. ALLEN.
H.R. 3099: Mr. HINCHEY.
H.R. 3121: Mr. MCDERMOTT.
H.R. 3143: Ms. KILPATRICK.
H.R. 3166: Mr. WATT of North Carolina.
H.R. 3171: Mr. BARR of Georgia.
H.R. 3175: Mr. MARKEY.
H.R. 3185: Mr. MCGOVERN, Mr. WYNN, Mr. BAIRD, and Mr. HOLDEN.
H.R. 3215: Mr. BARCIA, Mr. REHBERG, Mr. THORNBERRY, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. HEFLEY, Mr. GREEN of Wisconsin, Mr. LUCAS of Kentucky, Mr. EDWARDS, Mr. GANSKE, Mr. BILIRAKIS, Mr. CHAMBLISS, Mr. SAXTON, Mr. WELDON of Florida, Mr. LINDER, Ms. DUNN, Mr. GEKAS, Mr. BRADY of Texas, Mr. TIAHRT, and Ms. ROS-LEHTINEN.
H.R. 3218: Mr. UDALL of Colorado and Mr. GONZALEZ.
H.R. 3230: Mr. MCHUGH, Mr. ENGEL, and Ms. HART.
H.R. 3238: Mr. ISRAEL and Mr. KUCINICH.
H.R. 3244: Mrs. JO ANN DAVIS of Virginia, Mr. BOSWELL, and Mr. BILIRAKIS.
H.R. 3267: Mr. KUCINICH.
H.R. 3272: Mr. BONIOR, Mr. TOWNS, Mrs. MALONEY of New York, Mr. RANGEL, Mr. ISRAEL, Mrs. MCCARTHY of New York, Mr. OWENS, and Mr. ACKERMAN.
H.R. 3284: Mr. WAXMAN, Mr. EVANS, and Mr. BONIOR.
H.R. 3289: Mr. FROST and Mr. RANGEL.
H.R. 3319: Mr. TIAHRT.
H.R. 3331: Mr. HINCHEY, Ms. LEE, and Mr. OWENS.
H.R. 3336: Mr. RANGEL, Mr. DOYLE, Ms. SCHAKOWSKY, Ms. CARSON of Indiana, Mr. BONIOR, Mr. WATT of North Carolina, and Mrs. NAPOLITANO.
H.R. 3347: Mr. TIAHRT, Mr. EHLERS, Mr. DUNCAN, Mr. MCHUGH, Mr. GRAVES, Mr. MCGOVERN, Mr. WYNN, Mr. GILCHREST, Mr. REHBERG, Mr. PETRI, Mr. PETERSON of Minnesota, Ms. HART, Mr. JONES of North Carolina, and Mr. LOBIONDO.
H.R. 3351: Mr. LOBIONDO, Mr. WEINER, Mr. BERRY, Mr. DOYLE, Mr. UDALL of New Mexico, Mr. PETERSON of Minnesota, Mr. CHAMBLISS, Mr. GUTKNECHT, Mrs. CLAYTON, Mr. SHERMAN, Mrs. MYRICK, Mr. SCHUSTER, Mr. STEARNS, Mrs. CAPITO, Ms. DEGETTE, Ms. ESHOO, Mr. ROTHMAN, Mrs. CUBIN, Mr. HOEFFEL, Mr. BISHOP, Mr. VITTER, and Mr. RODRIGUEZ.
H.R. 3353: Ms. HART.
H.R. 3360: Mr. BILIRAKIS, Mr. NORWOOD, Mr. ISAKSON, Mr. CHAMBLISS, Mr. LINDER, Mr. BARR of Georgia, Mr. KINGSTON, Mr. COLLINS, Mr. BISHOP, Mr. TOWNS, Mr. GREEN of Texas, Mr. PICKERING, Mrs. THURMAN, Mrs. MCCARTHY of New York, Mr. ACKERMAN, Mr. SWEENEY, Ms. BROWN of Florida, Mr. NADLER, Mr. HINCHEY, Mr. MEEKS of New York, Mr. GILMAN, Mr. MCNULTY, Mr. SMITH of New Jersey, Mr. WEINER, Ms. ROS-LEHTINEN, Mr. WALSH, Mrs. MALONEY of New York, Mr. BOYD, Mr. LUTHER, Mr. WHITFIELD, Mr. SERRANO, Mr. GRUCCI, Mr. LOBIONDO, Mr. PALLONE, Mr. FERGUSON, Mr. SKELTON, Mr. STEARNS, Mr. FOLEY, Mr. DIAZ-BALART, and Mr. KING.
H.R. 3363: Mrs. CAPPS.
H.R. 3364: Mr. JONES of North Carolina and Mr. NETHERCUTT.
H.R. 3368: Mr. KLECZKA and Mr. OWENS.
H.R. 3373: Ms. SLAUGHTER and Mr. ISRAEL.
H.R. 3376: Mr. PASCRELL.
H.R. 3389: Mr. KENNEDY of Rhode Island.
H.R. 3393: Mr. MORAN of Virginia, Mr. BOYD, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, and Mr. CLYBURN.
H.R. 3402: Mr. MEEKS of New York, Mr. ISRAEL, Mrs. LOWEY, and Ms. SLAUGHTER.
H.R. 3414: Mr. OWENS, Mr. BOEHLERT, Mr. MEEKS of New York, Mr. BOSWELL, Mr. SKELTON, Mrs. CLAYTON, and Mr. RUSH.
H.J. Res. 75: Mr. ROHRABACHER, Mr. SCHROCK, Mr. BURR of North Carolina, Mr. COOKSEY, Mr. WATKINS, and Mr. CANTOR.
H. Con. Res. 199: Mr. MATSUI, Mr. MCNULTY, Mr. BORSKI, Mr. WYNN, Mr. KILDEE, Ms. KAPTUR, Mr. MCHUGH, Ms. RIVERS, and Mr. FROST.
H. Con. Res. 222: Mrs. ROUKEMA and Mr. WEINER.
H. Con. Res. 249: Mr. MALONEY of Connecticut, Mrs. MEEK of Florida, Ms. BROWN of Florida, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. PAYNE, Mr. CONDIT, Mr. ACEVEDO-VILA, Ms. ROYBAL-ALLARD, Mr. FARR of California, Mr. DELAHUNT, Mr. ORTIZ, Mr. HALL of Ohio, Mr. GUTIERREZ, Mr. EVANS, Mr. HOYER, Ms. PELOSI, Ms. SANCHEZ, Mr. BOYD, Mr. BROWN of Ohio, Mr. DAVIS of Florida, Mr. NUSSLE, Mr. SPRATT, Mr. CLEMENT, Mr. MORAN of Virginia, Ms. HOOLEY of Oregon, Mr. HOEFFEL, and Mr. CAPUANO.
H. Con. Res. 260: Ms. SCHAKOWSKY.
H. Con. Res. 279: Mr. RODRIGUEZ, and Mr. ENGLISH.
H. Res. 295: Ms. HART.

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, together we salute You as Lord of our lives, the one to whom we all must report, the only one we ultimately need to please, and the one who is the final judge of our leadership. We pray that our shared loyalty to You as our sovereign Lord will draw us closer to one another in the bond of service to our Nation. It is in fellowship with You that we find one another. Whenever we are divided in our differences over secondary issues, remind us of our oneness on essential issues: our accountability to You, our commitment to Your Commandments, our dedication to Your justice and mercy, our patriotism for our Nation, and our prayer that, through our efforts, You will provide Your best for our Nation. And there is something else, Lord: We all admit our total dependence on Your presence to give us strength and courage. So with one mind and a shared commitment, we humbly fall on the knees of our hearts and ask that You bless us and keep us, make Your face shine upon us, lift up Your countenance before us, and grant us Your peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 6, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will be in a period for morning business, with Senators permitted to speak for up to 10 minutes each. The majority leader has asked me to announce that he hopes to have as many as three rollcall votes on judicial nominations beginning at around 11 o'clock this morning. At noon, under the order previously entered, the Senate will begin consideration of the Department of Defense Appropriations Act. There will be rollcall votes on amendments to the Defense appropriations bill throughout the day.

As I announced last night for the majority leader, if there is any hope of getting out of here next Friday—and I think there is—we must complete our work on the Department of Defense appropriations bill this week. This week could be tonight, Friday, Saturday, or Sunday. But if there is any hope of getting us out of here, we have to get this bill to conference as quickly as we can so that the House and Senate conferees can report a conference report to both the House and Senate. If we do not finish the bill this week, our ability to leave here a week from tomorrow is very limited.

MEASURE PLACED ON THE CALENDAR—S. 1766

Mr. REID. Madam President, I understand S. 1766 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

NOTICE

Effective January 1, 2002, the subscription price of the Congressional Record will be $422 per year or $211 for six months. Individual issues may be purchased for $5.00 per copy. The cost for the microfiche edition will remain $141 per year with single copies remaining $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

Michael F. DiMario, *Public Printer*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Mr. REID. Madam President, I ask that S. 1766 be read for a second time, and then I would object at this time to any further proceedings.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1766) to provide for the energy security of the Nation, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Wyoming.

SENIORS MENTAL HEALTH ACCESS IMPROVEMENT ACT OF 2001

Mr. THOMAS. Madam President, I rise today to make a few comments on a bill introduced earlier this week and about which I have not had a chance to talk. I introduced it along with Senator LINCOLN of Arkansas. It is called the Seniors Mental Health Access Improvement Act of 2001.

I am very happy to have had an opportunity to introduce this bill. It is important legislation, particularly for seniors living in rural areas. The bill is designed to provide more opportunities for seniors under Medicare to have professional assistance in areas where often there are shortages of providers, and this is designed to help that situation.

It permits mental health counselors and marriage and family therapists to bill Medicare for their services, and it pays them at the rate of clinical social workers.

It is particularly important in rural States, such as my State of Wyoming, where often there is a shortage of mental health providers, and so it requires a good deal of travel. On the other hand, there are trained social workers who are prepared to provide these services if they have an opportunity to do it under the Medicare Program. That is what this bill does.

Currently, there are Medicare limitations on the types of mental health providers. Rural seniors are often forced to travel a good distance to take advantage of those services. Mental health counselors and marriage and family therapists are often the only mental health providers in a community. They have the same training and education as clinical social workers. Social workers have been recognized by Medicare for 10 years.

Seniors, of course, do have higher rates of suicide and depression than other populations. Therefore, it is very evident that this change is needed. We need to recognize the qualifications of these providers and ensure that seniors do have access to them.

The majority of Wyoming communities are mental health professional shortage areas and probably will continue to be that way for some time. Because Medicare recognizes a limited number of mental health providers, Wyoming seniors have access to 537 providers, 247 social workers, and 121 psychiatrists.

This bill will double the number of available Medicare mental health providers. Seventy-five percent of 518 national designated mental health professional shortage areas are in rural areas. Again, not a surprise.

One-fifth of rural counties have no mental health services of any kind.

Frontier counties, of course, as they are designated in terms of mental health providers, are in even more dire straits.

Ninety-five percent do not have psychiatrists, 68 percent do not have psychologists, and 78 percent do not have social workers.

I am proud to be an author of this bill, along with Senator LINCOLN. I hope we will make some progress as soon as possible. It will perhaps not be this year, I imagine, but it will be as we move on into Medicare reform, which I think we will certainly undertake next year.

DEFENSE APPROPRIATIONS

Mr. THOMAS. Mr. President, I want to make a comment or two about the subject we are going to debate this morning. It seems to me certainly there is nothing more important for us to undertake than the matter of appropriations for defense. I think the Senate needs to be responsive to the President's request for defense funding in not adding non-defense spending to this Defense appropriations bill.

Our men and women in the military are overseas defending this country, and we must support them. This appropriations bill, as other appropriations bills, obviously should have been passed back in August or September, the end of the fiscal year. We have gone 2 months now without increasing those dollars. So I hope we can move forward, and I hope we do not hold this bill hostage to some kind of fairly unrelated spending. We ought to get right to it and do what the President has asked us to do.

He has indicated what we did in the $40 billion in September is available. He has indicated when they need more money, whether it be for defense or domestic terrorism, he will request more money. So I certainly hope we do not spend a great deal of time trying to add more dollars to Defense appropriations than what the President had asked. He has made it quite clear he intends to veto it if it is that way. I think that would be a real disadvantage to us all and to the people we are intending to assist.

I look forward to being able to deal with that, to come up with something we can pass through the Senate and the House, get to the President, and that we can support the President in this area of defense. I think we find ourselves sometimes talking about spending money when there is not a plan yet to use it. Domestic security is one of those things. We have seen meetings where they are working together and Governor Ridge has said when we get the plan we will ask for the money that is necessary if it is not now in the $20 billion. So to go ahead and sort of put the money out there before those who are managing the program have had an opportunity to decide how that money can best be used is a mistake. I hope we do not do that.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON. I ask unanimous consent to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPORT THE ENERGY BILL AND THE RENEWABLE FUELS STANDARD

Mr. JOHNSON. Mr. President, I rise in strong support of the comprehensive energy bill that is being introduced today.

As we all know, there has been a great deal of discussion this year about the nation's energy situation. The increasing volatility in gasoline and diesel prices and the growing tension in the world from the terrorist attacks have affected all of us. There is a clear need for energy policies that ensure long term planning, homeland security, fuel diversity and a focus on new technologies.

To this end, I am very pleased that a comprehensive energy bill has been introduced in the Senate by my South Dakota colleague, Senator TOM

DASCHLE. The bill is the result of many months of hard work by the Majority Leader and the chairmen of the committees of jurisdiction, including Senator JEFF BINGAMAN, the chairman of the Energy Committee, of which I am a member. We have listened to the concerns of both those who run our energy systems and our constituents in crafting the legislation. The result is a balanced and thorough product that addresses most of the major segments of the energy system and looks ahead to the needs of future.

The bill covers a number of important areas, including incentives to increase oil and gas production and the nation's supplies of traditional fuels, streamlining of electricity systems and regulations, important environmental and conservation measures, and provisions to increase efficiency of vehicles and appliances.

One of the key provisions in the bill is the inclusion of a renewable fuels standard. Earlier this year, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001, S. 1006, to ensure future growth for ethanol and biodiesel through the creation of a new renewable fuels content standard in all motor fuel produced and used in the U.S. I am pleased the framework of this bill is included in the comprehensive energy legislation.

Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the United States. 1.8 billion gallons is currently produced in the U.S. The energy bill's language would require that five billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol and renewable fuel production.

There are great benefits of ethanol and renewable fuels for the environment and the economies of rural communities. We have many ethanol plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment to serve a growing market for clean domestic fuels.

Based on current projections, construction of new plants will generate $900 million in capital investment and tens of thousands of construction jobs all across rural America. For corn farmers, the price of corn is expected to rise between 20–30 cents per bushel. Farmers will have the opportunity to invest in these ethanol plants to capture a greater piece of the value-added profitability.

Combine this with the provisions of the energy bill and the potential economic impact for South Dakota is enormous.

Today, an important but underemphasized future is biodiesel, which is cheaply produced from excess soybean oil. We all know that soybean prices are hovering near historic lows. Biodiesel production is small but has been growing steadily. A renewable fuel standard would greatly increase the prospects for bioproduction and benefit soybean farmers from South Dakota and other states around the Nation.

Moreover, the enactment of renewable fuel standards would greatly increase the Nation's energy security. Greater usage of renewable fuels would displace the level of foreign oil that we currently use. During these difficult times it is imperative that we find ways to improve our Nation's energy security and reduce our overwhelming dependence on foreign oil. A renewable fuel standard would go a long way toward achieving this critically important goal.

The House has passed an energy bill without any provisions for renewable fuel standard. Moreover, I believe the other body looks backward by focusing too heavily on simple tax breaks for traditional fuel supplies without enough encouragement for new technologies. Where there are agriculturally based fuels, wind energy, and so on, we adequately provide for it in this Senate legislation. The House bill sets us on track for continued heavy reliance on imported petroleum from unstable nations all around the world.

I believe the Senate bill that is now introduced achieves the right balance for the Nation's future. I commend Senator DASCHLE AND SENATOR BINGAMAN for their efforts and I look forward to debate this coming year on this critical piece of legislation which directs our attention not only to energy needs of every kind in our Nation but to the energy independence and energy security that during these troubling times we all understand now more profoundly than ever is so badly needed.

ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that at 11:40 a.m. today the Senate proceed to executive session to consider Calendar No. 584, Harris Hartz, to be United States Circuit Court Judge; that the Senate immediately vote on confirmation of the nomination; and immediately following the disposition of the nomination, calendar Nos. 585 and 588 be confirmed; that any statements on the above nominations appear at the appropriate place in the RECORD; and upon the disposition of the above nominations, the President be immediately notified of the Senate's action and the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, as in executive session, I ask for the yeas and nays on Calendar No. 584.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mr. REID. Madam President, in a short period of time we will take up the Defense appropriations bill. This is a bill the Chair and the ranking member, Senators INOUYE and STEVENS, have been working on as partners. A better term would be cochairs. They work so well together and have for so many years. They worked hard to get the bill to the point where it now is. We also have the full committee chair, Senator BYRD, who has worked very hard on this, with his counterpart, also, Senator STEVENS, to get to the point where the bill is.

One of the—and I am sorry to say this—controversial aspects of this legislation deals with something Senator BYRD has called homeland security. There will be efforts to strike this provision because it costs too much money, according to some, even though Governor Ridge, the homeland security czar, has stated that we need hundreds of millions of dollars for the things he has already recognized need to be done.

If we, in our mind's eye, fix the headlines of newspapers in recent weeks—Smallpox threat; subsequent headline: Cost of smallpox vaccinations more than originally anticipated; yesterday's headlines across the country: Osama bin Laden and the terrorists have recognized that they have what is called a dirty nuclear weapon, maybe—I hope we will be in a position to do something about this. That is what Senator BYRD has tried to do. That is what this legislation is all about, dealing with some of the things I mentioned, headlines around the country indicating we need to do something about homeland security.

Two of our Senators have been attacked with anthrax: Senator DASCHLE and Senator LEAHY. As we speak, we are trying to work with Senator LEAHY's letter to find out what should be done with that.

I hope when this legislation comes before us, which will be very soon, we will recognize we will have problems with anthrax and other biological agents such as smallpox, that our ports are unsafe and our nuclear plants are unsafe. Local government is really being hurt as a result of their spending all this money. So I hope we do something to keep that in the bill.

I see the majority leader has come to the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senate majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished assistant Democratic leader for his comments

just now and add my voice. He has said it so well. I know within the hour the distinguished chair of the Appropriations Committee, Senator BYRD, along with the Senator from Hawaii, our dear colleague, Mr. INOUYE, will lay down the Defense Appropriations Committee bill. Of course, a key part of that Defense Appropriations Committee bill is the homeland defense legislation incorporated within that bill.

The homeland defense bill is one-half of our economic stimulus plan, first and foremost. It responds to the economists across the country who have said, if you are going to improve the economy, if you are going to strengthen our economic circumstances, the very best way to do it—in fact, the only way to ensure that it happens—is to make sure the confidence level of all Americans improves.

Confidence has been shaken. The only way we can address it effectively is by ensuring that, regardless of where they travel, regardless of their circumstances at home, the mail they are now receiving—that under any circumstances we begin to put the safety back into our system, safety that we have lost since September 11. That is what homeland defense is all about.

Read the headlines in almost any daily newspaper. You don't need any more evidence than that, that we have a set of circumstances unlike this country has seen before. God forbid we have another event tomorrow, an attack within the week. I have no doubt, if we had any kind of additional terror activity, regardless of where it may be, even abroad, it would trigger the need, it would trigger the desire on the part of our colleagues, to ensure that we have the resources for homeland defense.

That is what we are saying. We should not be response oriented, we should be preventive in our desire to ensure the infrastructure is in place.

We have proposed a very narrowly drawn bill, a bill that addresses the need for bioterrorism response, the need for greater law enforcement, the need for protecting our infrastructure, the need for ensuring that we have the health facilities in place. That is what this bill does.

I don't know that you could make a better case than the New York Times editorial this morning about the need for homeland defense now. They simply make a statement, about two-thirds of the way through the editorial, that says basically: The American people want this protection now. They don't want to wait until next year. They know what we know: The terrorists do not operate on a fiscal year basis. Terrorists operate now. Terrorists will operate whenever it is convenient and appropriate for them.

There is no time to wait, when it comes to the homeland defense investments that are so important to us, as we look to restoring confidence, restoring safety, restoring the opportunities that we need in this country to be ready should something happen.

That is what this fight is going to be all about. I hope our colleagues will join with us in supporting it. I hope we are not going to be required to go through it piece by piece, which is what we will have to do if we have no other option; we will offer amendments piece by piece.

I asked my Republican friends, rhetorically, over the last several days: Tell us which part of it you do not support. Is it the effort at bioterrorism? We have 76 cosponsors on the Kennedy-Frist bill. I think there would be strong support for that. Is it efforts to provide greater resources to local law enforcement? If they are opposed to that, let's have an amendment. We'll take it out. Are you opposed to providing the new vaccine for smallpox and anthrax antibiotics? If that part is what you are opposed to, we will take that out. But we will be required, of course, to take each of these pieces step by step. I hope that will not be necessary.

I hope people understand this is going to be a very important debate, a debate that I think will give us our first chance to see how willing the Senate is to respond to the very critical need in this country for homeland defense. This is the first opportunity, and it is on the Defense bill. There could not be a more appropriate vehicle for it.

I hope my colleagues will support it, will work with us to get it. It has such import that it is my intention to stay on this bill until we finish it. If it takes Saturday to do it, I want to put my colleagues on notice. Because Monday is a Jewish holiday, Hanukkah, we really have to complete our work this week. So we will be on the bill this afternoon. We will be on the bill tomorrow. We will be on the bill Saturday if necessary. But we will stay on the bill and complete our work on it because it is that critical. We need to get in conference with our House colleagues, and we need to get this job done before we leave.

Clearly, because of the importance we must place on completing our work, we will have to accommodate whatever schedule is required to ensure that we complete it this week.

Mr. President, I ask unanimous consent the New York Times editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 6, 2001.]

THE HOME-FRONT EMERGENCY

The need to do more to guard against terrorism at home is obvious. Tom Ridge, the director of homeland defense, and members of Congress have certainly endorsed the idea—in principle. Yet today, when the Senate takes up a measure that would add $7.5 billion to the budget for items like airport security and defense against germ warfare, Republican leaders will be trying to block it. The appropriation is tacked onto a emergency military spending bill that no one opposes. But an emergency also exists at home. Senators should put the safety of their constituents first and vote for the entire package.

President Bush has threatened to veto the $7.5 billion measure if it reaches his desk, and Mr. Ridge has urged the senators to wait until next year, when he acknowledges he will be asking for more money for things like public health and food safety. Senators have been appropriately skeptical of his plea for delay. ''That, simply stated, is too late,'' said Arlen Specter, a Pennsylvania Republican.

Why would the White House, which has issued another generalized terrorism warning, want to temporize on mounting an American response? The answer is old-fashioned budget politics. Earlier this year the administration and Congress settled on a ceiling of $686 billion in so-called discretionary spending for the current fiscal year. After Sept. 11, Mr. Bush and Congress agreed to add $40 billion to deal with the terrorist attacks, half of which was supposed to be set aside for New York. Not surprisingly, the money has been used up quickly. About $20 billion is going to the military to prosecute the war in Afghanistan. Only $10 billion may go to New York. Only $8.5 billion is set aside for homeland defenses.

It makes no sense to postpone help for the nation's health facilities to recognize and treat victims of biological or chemical attack when federal health officials have testified that their departments could use the money now. If the American people were asked whether they wanted to wait until next year to appropriate money to keep nuclear facilities secure and protect the nation's borders, they would undoubtedly opt for immediate action. The other great unmet need this year is New York City's recovery. The Bush administration argues that the promise of at least $20 billion to help the city will, eventually, be spent as costs are incurred. But that is beside the point. The Senate bill would give New York a further $7.5 billion for costs that would not be covered under those emergency procedures, such as grants to businesses to keep them from moving out of Lower Manhattan. It would also commit money to the Port Authority, the Metropolitan Transportation Authority and other agencies to start rebuilding now. Other parts of the package would help reimburse utilities for rewiring the area and hospitals for the emergency care they provided.

The only serious argument against the Senate package appears to be the president's opposition. Senator Ted Stevens of Alaska, the ranking Republican on the Appropriations Committee, says he would vote for the bill except that the White House asked him not to.

Mr. Bush has lately accused Congress of overspending, though lawmakers have stayed within all the agreed-upon-limits except those related to the emergency. Recently Mitchell Daniels, Mr. Bush's budget director, has been citing new deficit projections as evidence that Congress needs to keep spending down. But the administration has found room to expand the separate economic stimulus package to include huge giveaways to corporations and the wealthy. About $25 billion in the Republican stimulus bill would simply go to help the biggest corporations in America avoid taxes altogether.

This is a time for Senator Stevens, and all his colleagues, to vote on the merits. The merits dictate that the bill be passed.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I say to the distinguished majority leader, so everyone within the sound of his voice recognizes this is not

something we are trying to drum up for any reason other than the seriousness of it, I direct the Senator to today's newspaper—it is in all the newspapers—where the Ambassador from the Taliban to Pakistan said that any weapons the Taliban have they would use, including nuclear. He is not speaking for al-Qaida. If the Taliban, which we recognize as bad people and bad leaders, are willing to do that, will the Senator acknowledge that al-Qaida would be willing to do that, and more?

Mr. DASCHLE. I think it has been documented now in most of the newspapers and media that the terrorist cells which exist have produced information that would cause us to be concerned that some of these cells and some of these networks have weapons of mass destruction that they certainly intend to target towards the United States. There is no question they have made every attempt to acquire these weapons over the course of the last several years, and if they have been successful, I think it is a reasonable assumption the United States would be the first to experience those attacks.

That is why it is so critical for us to do all we can to prepare for whatever possibility there is that these weapons could be used against us. We are not there yet. We have a lot of work to do to create the kind of infrastructure required to provide the maximum degree of safety for all Americans. We don't have that today.

Director Ridge has indicated he is prepared to ask for additional resources next year. They have acknowledged that additional cost could entail upwards of a $200 billion commitment in homeland defense resources. But if we are going to require $200 billion, what is wrong with taking the first installment, $7.5 billion, and putting in place at least the foundation of this new homeland defense infrastructure?

We have to do it. We know we have to do it. Why do it responsively in reaction to incidents that have occurred? The time to do it is now, before these new incidents occur. That is really the essence of the debate in the Chamber this afternoon. But I thank the Senator for asking the question.

Mr. REID. Mr. President, it appears to me the Defense bill has been worked very much by Senators INOUYE and STEVENS, and they have come up with a great bill to meet the demands of this new war. The bill is about $340 billion. We are arguing over $7.5 billion for homeland security—the items the distinguished majority leader outlined. It doesn't seem to me we should be arguing about $7.5 billion compared to $340 billion. Some people in the administration say maybe we can deal with it in a supplemental next year. But that is next year. It is the same dollars. It would be a few months' difference. A few months, as far as my family is concerned, and the people of every State, could make a big difference.

Does the Senator agree?

Mr. DASCHLE. Mr. President, I agree with the Senator from Nevada.

Also, there really have been, as I understand, two basic concerns expressed by our Republican friends about their additional commitment to homeland defense. One was that we agreed to $68.6 billion in appropriations for this calendar year. The fact is that is true. We have agreed to $68.6 billion in overall money. But we also have always recognized that in cases of emergency there is a need for an additional commitment in resources. That agreement was reached before the anthrax attack. That agreement was reached before we had three specific incidents where we were put on high alert as a result of the potential for additional attacks somewhere in this country. Clearly, the circumstances have changed dramatically since that agreement. They certainly have in my office, and I think we could say across the country.

No. 1, I think we all have to recognize the changed circumstances, and the emergency circumstances. We need to at least begin to put in place the homeland defense structure that is so critical.

The second concern is that our Republican colleagues have said this really doesn't have anything to do with stimulus, and for that reason they are opposed to it. Yet that is contrary to what every single economist has told us—that there is a tremendous stimulus out there. In fact, there was an article on the front page of the Washington Post a few days ago which said as a direct result of the efforts we are now making on homeland defense, the economy has actually started to blossom again because of some of these new commitments we have made.

On both counts—No. 1, because the emergency circumstances have changed, and, No. 2, clearly there is a stimulative value to what it is we are doing beyond the security value to which we should all aspire—there is ample reason for us to be overwhelmingly supportive of homeland defense.

I only ask my colleagues: What would happen if we were attacked tomorrow? I have no doubt we would respond with not $7.5 billion, but we might respond with $70 billion, if another attack were to occur. We don't want to see another attack. God forbid that there would be another attack. But we have to assume that if it is up to the terrorists, because they do not look at fiscal years—they are not going to wait until after we put all of this in place—they are going to attack whenever they think it is right. And I don't want to see that happen to this country. I think it is critical that we be prepared for whatever comes.

Our Republican friends say we can't afford $7.5 billion right now. I find that the most illogical of all their arguments given their position. They say we can't commit $7.5 billion. But then they go out and commit $175 billion to an economic stimulus package all in the name of tax cuts, $23 billion of which goes in the form of retroactive AMT relief to the largest corporations in the country—General Motors, $1 billion; IBM, close to $1 billion; Ford, almost $1 billion in retroactive payments. Where is the stimulative value in retroactive payments of that magnitude to corporations that have billions of dollars of cash on hand?

Their notion is, we can't afford it, while at the same time our Republican friends will tell us, well, we still think we ought to be spending not $75 billion, which is what the President advocated for a stimulus package, but $175 billion—$100 billion more than what the President has acknowledged would be of stimulative value to us.

I have to say that argument doesn't hold much water either. Based on what opposition I have heard so far, I don't think the argument is even close.

The bottom line is that we have to be prepared. The bottom line is that for an economic stimulus package to work, people have to feel more secure. The bottom line is that we need these resources to put in place a homeland defense system that we recognize will be needed for all perpetuity—not just this year and not just next year.

I hope our colleagues will join with us in supporting this package in the recognition that we need to be just as cognizant of our needs here at home as we are abroad.

Mr. CONRAD. Mr. President, will the leader yield?

Mr. DASCHLE. I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. I saw their discussion occurring on the floor. I have been doing some calculations with my staff in the Budget Committee. I thought some of what we found might be useful in the discussion.

Over the next 3 years, the difference between the Republican stimulus plan and the Democratic stimulus plan is that the Republicans would add $140 billion more in deficits with their stimulus plan than with ours. And now they are talking about——

Mr. DASCHLE. Did the Senator from North Dakota say $140 billion over how long?

Mr. CONRAD. Just 3 years.

Mr. DASCHLE. Just 3 years? Not a 10-year difference but just 3 years?

Mr. CONRAD. That is correct. If one looks at the different fiscal outcomes based on the Republican stimulus plan and the Democratic stimulus plan just over the next 3 years, it is over $140 billion of additional deficits and additional debt with the Republican stimulus plan versus the Democratic stimulus plan.

Interestingly enough, they are criticizing adding $7.5 billion for homeland security to respond to the bioterrorism threat, to improve security at airports, to improve security at our harbors, to improve security for the rail system in this country—all things that are clearly necessary. I submit that terrorists are unlikely to wait for us.

But I also have learned that within the administration, they are working

on a supplemental that would come to us early next year for as much as $20 billion for these same items. So what we have in terms of resistance on the other side to addressing the vulnerability of this country now on the terrorist threat rings pretty hollow—rings pretty hollow—when they say, on the one hand, gee, you are going to be adding $7.5 billion to the deficit and the debt, and yet when we examine their stimulus package over the next 3 years, compared to ours, they are going to be adding $140 billion to the deficit and debt and perhaps most revealing, all of their talk about how this represents big spending, and we have learned through sources in the administration they are working on their own additional spending plan to be brought before us next year in the amount of approximately $20 billion.

I did not know if the leader had heard of these calculations or of these reports, but I thought it might be useful to the discussion as to what the issue is going to be when we vote on these questions on the floor of the Senate.

Mr. DASCHLE. I really appreciate the Senator from North Dakota clarifying and reporting to the body about the intentions of the administration. I was not aware they are contemplating a supplemental of that magnitude. I find it all the more ironic, I guess, that at the very time they oppose $7.5 billion, they would be contemplating a supplemental of the magnitude the Senator has just announced—a $20 billion supplemental.

If $20 billion is good for February, why isn't $7.5 billion good for December? Where is the difference? Why is it that we must wait? And what happens between December and February if something, God forbid, would happen?

So it seems to me that it makes the case all the more that this isn't necessarily about money, it isn't about the need. It cannot be about the administration's intentions. I do not understand the basis for their opposition, if, in just 60 days, as the Senator from North Dakota reports, they could be preparing a supplemental of the magnitude he has just discussed.

So I hope our colleagues can clarify that because I think the $20 billion is a clear indication they, too, understand the importance of homeland defense. What we are arguing over is whether we ought to do it now or we ought to do it later.

What the Senator from North Dakota is saying is, we ought to do it now. This is the time when we ought to be putting much of the preventative infrastructure in place. So I appreciate very much the Senator's comments and his contribution to this colloquy.

Mr. CONRAD: I just say to my colleague, I was startled to hear the criticism coming from the other side on the question of $7.5 billion to deal with specific threats that we all know exist. After all, our vulnerability in these matters is not something we just discovered. We have had report after report made by very respected Members. In fact, the former Republican majority leader in the Senate, Howard Baker, did a report that alerted us to the need for tens of billions of dollars of expenditure to deal with weapons of mass destruction being developed in other parts of the world, specifically the former Soviet Union; and there are also the reports that were done on a bipartisan basis of the terrorist threats that existed to this country's infrastructure and the need to respond. It takes money to respond.

In light of what I have been told by people within the administration that they are, right now, working on a potential supplemental of $20 billion for early next year, perhaps in the March timeframe, that they would be bringing before us, they themselves know it is going to take more money to respond to bioterrorism; it is going to take more money to strengthen our airports against terrorist attack; it is going to take more money to provide defense for our harbors and to deal with the threats to the rail infrastructure of this country.

I do not think there is a person here that does not know there are these additional threats. When I couple that with what the Republicans are doing in terms of their stimulus package that would add, in comparison to our package, over $140 billion of additional deficit and debt over the next 3 years, and they are talking about defending the deficit on $7.5 billion of funding necessary to protect this Nation at the same time they are working on a plan for $20 billion of additional funding to protect this Nation, that kind of rings hollow.

Mr. DASCHLE. I say to the Senator from North Dakota, it does ring hollow. I would hope our colleagues could enlighten us as to the intentions of the administration. If, indeed, they are going to be requesting this $20 billion supplemental, we ought to know that. If they are going to be requesting it, how much would be dedicated to homeland defense? If they can tell us that, they ought to be explaining why it is important to do it in March but it is not important to do it in December.

Can they assure us that between December and March there will not be any need at all? I do not think anyone can do that. Nobody is that clairvoyant. So it is a risk. I do not think anybody ought to be willing to take that risk today.

Clearly, we could commit a lot more than $7.5 billion to our own personal security. But that is what we are doing in the name of reaching accommodation with our Republican friends. We started out with $15 billion, and we have cut it back in an effort to try to find a way to reach some compromise. What we have done is to cut it back to the bare essentials.

As the Senator from North Dakota pointed out, the essentials—which includes the fight against bioterrorism; the fight to ensure that our infrastructure, our nuclear facilities, our ports, our airports are secure; the fight to ensure that we have the health facilities in place—we were just apprised of a situation where somebody contracted West Nile disease in September. The diagnosis was sent to the Centers for Disease Control, and they were not informed as to what that diagnosis was until just this week because they are so backlogged because they do not have the resources, they do not have the personnel.

My goodness, that is a wakeup call of a magnitude about which everybody should be concerned. But that is what we are talking about with homeland security: ensuring that we have the resources to deal with diagnosis, ensuring we can work with local law enforcement officials.

To which part of what I have just described is our Republican caucus opposed? Which part of it do they want to take out? I think that is what we are going to have to try to figure out.

I think clearly within each one of those cases not only are we attempting to address it in as conservative a way as we can from a fiscal point of view but in as prudent a way as possible, taking what needs to be done first and dealing with those issues that could be dealt with later at a later date.

So I appreciate very much the Senator's comments this morning.

Mr. CONRAD. Will the Senator yield for an additional observation?

Mr. DASCHLE. I am happy to yield.

Mr. CONRAD. I thought I should report on testimony we had before the Budget Committee with respect to stimulus. We had a number of economists who appeared who said spending to strengthen security is perhaps the very best thing we could do to stimulate the economy. Not only would the spending itself be stimulative, but, more important, it would improve the security of people in the country.

One of the big problems we have is a lack of confidence.

People are feeling threatened. People are feeling vulnerable. That inhibits economic activity. We see that in airline travel. People don't feel safe flying. To the extent you can make expenditures that improve the security of airports and improve the security of rail operations and improve the security in ports, that is going to improve the psychological security factor that people feel. That is going to help the economy. They said you actually get a double hit: Not only the expenditures will be stimulative, but the additional security will make people feel safer and be safer.

I hope this does not become kind of a political debate, a partisan political debate, but that we deal with the underlying realities. The fact is, we know there are things that have to be done to strengthen our security. We can make that commitment now and get the work underway now. That makes sense instead of delaying.

We are talking about $7.5 billion, when our Republican friends are talking about a stimulus package that

means $140 billion of additional debt over the next 3 years over and above what Democrats are advocating. This choice is going to be a relatively simple one.

Mr. DASCHLE. I thank the Senator from North Dakota for his contribution. I underscore what he said just now about the stimulative value of confidence. You can't calculate how much of an improvement in the economy it will make when people feel safe again. You know it is there; intuitively, you know that if people feel good about flying and traveling and doing all the things we did months ago, this economy is going to start improving. People are going to start putting their lives back together again with a sense of normalcy that we have not experienced in some time. They have to know it is safe to do so, that our airports and our ports and our nuclear facilities and all of our infrastructure are safer today than they were before.

That is, in essence, what we are talking about, creating that psychology, that confidence, that sense of normalcy that we have not had now for some time. I hope my colleagues will work with us in a way that will allow us to address this need. If we are going to do it next March, let's do it now. Let's do it in a way that we can agree ought to be done.

Homeland security is not a partisan issue, and it should not be in this case either.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the majority leader has outlined for us what we will take up the balance of today and possibly tomorrow as we debate the most important issue of Department of Defense appropriations.

There is something that has to be said in response to what the majority leader has just outlined because while he has opined with great emotion a frustration about the basis of opposition that those of us on this side are expressing to this particular bill, what he has failed to talk about are the very agreements he once made and once entered into with our President.

That agreement first started on October 2, well after September 11, as this country was beginning to assess its needs in light of a terrorist threat and how we might ultimately conclude our efforts in Congress for fiscal year 2002.

The President, the majority leader from South Dakota, the Republican leader, and the House met. They looked at all of these different issues and agreed on a couple of issues. First, they agreed that $686 billion in discretionary spending was an adequate level, plus $40 billion that would be dedicated to homeland defense and the very emergencies we are talking about and the effort to deal with the great tragedy in New York City. Forty billion had already been agreed to: $20 billion of it was to be spent immediately at the discretion of the President; $20 billion was to be worked out cooperatively with the Congress and the appropriating committees of the Congress. That work has been done.

What has gone on in the meantime is the breaking of a word. I come from Idaho. The majority leader comes from South Dakota. Out there is a ground level expression called ''a deal is a deal.'' You walk up; you look your fellow person in the eye; you shake hands; you arrive at an agreement, and that is the way you operate. We went even beyond that.

The President, in a letter, wrote:

> This agreement is the result of extensive discussions to produce an acceptable bipartisan solution to facilitate the orderly enactment of appropriation measures. This agreement and the aggregate spending level are the result of a strong bipartisan effort at this critical time for our Nation, and I expect that all parties will now proceed expeditiously and in full compliance with the agreement.
>
> Sincerely,
>
> GEORGE W. BUSH.

Today the deal is not a deal; the deal has been broken. The DOD bill that comes before us this afternoon is a deal breaker.

What the majority leader did not say, as he opined the criticality of a homeland defense expenditure, was that it was not designed by the appropriate committees. It was not reviewed by all of the committees of jurisdiction. It was largely written in the back room of the chairman of the Appropriations Committee, Senator BOB BYRD. I am not at all here today to impugn the integrity of Senator BYRD. That is not my intent. I work with him on a daily basis. I have high regard for him.

But for the majority leader to come and say that $15 billion of spending is necessary in all of these categorized areas for homeland defense is totally ignoring the fact that darn few have seen all of where it goes. Our new Homeland Defense Director is at this moment developing an analysis of and an expression of need for a full implementation of homeland defense. That is where he talks, and the majority leader spoke, too—the issue of coming forth next year with recommendations, thoroughly vetted, looked at by all, examined by the committees of jurisdiction and not done in the back room of the Appropriations Committee of the Senate.

I am a bit surprised when the majority leader comes to the Chamber and suggests that Republicans are attempting to play politics with the issue of the stimulus package. It has been openly discussed. That is appropriate. It has been reviewed by the authorizing committees, and that is appropriate. But what has not gone on and that which is being brought to this committee this afternoon is a thorough and responsible examination by all involved. That is why we look at it with great concern, and the very reality that the money we are spending today crosses that line of a balanced budget and into deficit.

There is no question that a stimulus package that will be dealt with bipartisanly or not is going to have the impact of deficit spending or it likely could happen. But the reason we are willing to look at an investment in the economy today is the hopes of lessening that deficit, getting people back to work, causing things to happen out there.

Before the August recess, 1 million Americans had lost their jobs. We were already in recession by August.

The appropriate committees that examine it and the appropriate Federal agencies that examine it to make the official proclamation had not yet done so. That didn't occur until just a few weeks ago. Any of us going home, any of us spending time in our communities knew this country's economy had turned down dramatically. Now the figures show that it started well before George W. Bush came to town. It started in September of a year ago, and it was accelerating through the fall and into the winter months and across the summer. We now know that as a reality. It is important that we do a stimulus package. We responded to that when we did tax relief earlier this spring, and the then-chairman of the Budget Committee, who is now on the floor, spoke very eloquently as to why we did that. That is all part of the reason we are here.

I am extremely surprised we would now attempt to do what we are attempting to do in this. We will oppose this effort.

A deal is a deal. The President has said he will veto it. I am sorry the message did not get to the majority leader. I am sorry the agreement he once struck is no longer the deal because he says circumstances have changed.

No, frankly, circumstances have not changed. There is still a lot of money out there to spend. This afternoon we will thoroughly debate this issue, but it is important that the statements made this morning be responded to.

I yield the floor.

ECONOMIC STIMULUS

Mr. DOMENICI. Mr. President, before we are finished with the appropriations bill that will be before the Senate shortly and the economic stimulus package that someday will come up—I do not know when—I am very hopeful this will not end up being a partisan charade, but I can cite a couple items that do bother me.

I was reading Roll Call a couple days ago. I understood the majority leader made a statement that whoever was on that committee to produce a stimulus, they had gotten the message from the leadership and the Democrats that unless two-thirds of the Democrats were for the package, they could not take it out of this conference committee. It would not come out. That is an interesting statement. I assume it is pretty partisan, too.

Things operate in the Senate on a majority basis. We do not need two-thirds of Democrats and Republicans to

produce a stimulus package. In any event, I hope that is not a sign that it is going to be partisan because we do have a chance to produce a stimulus package that will be worthwhile.

From my standpoint, I think I am going to put together a stimulus package—what would go this with that, that with this. I might do that in the next couple days and at least come to the Chamber and talk about a stimulus package and why it is a stimulus package.

It is important to not just work on what we choose to call a stimulus package. The occupant of the chair would like to know that it produces new jobs, that it puts people to work, along with the other issues, such as unemployment compensation, perhaps some health care activity.

Clearly, we have to put some provisions in the bill that will encourage this economy in a realistic way. I will be watching. Everyone else will be watching. I hope we can get it done in due course.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF HARRIS L. HARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 11:40 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of Harris Hartz, to be U.S. Circuit Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, is there some reason for 3 minutes or is it assumed I asked for 3 minutes?

The PRESIDING OFFICER. The Chair was under the impression the Senator wanted 3 minutes.

Mr. DOMENICI. Can I do this, so I will not feel too pressed: I ask unanimous consent that I be able to speak for up to 5 minutes, which I probably will not use.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise to pay credit to a very distinguished lawyer and judge. His name is Harris Hartz. Today when we vote, if a majority votes for him—and I do not see why we would not; it might be a unanimous vote—he will become the U.S. Circuit Judge for the Tenth Circuit.

To the extent a Senator, based upon observing and asking other people, can fill himself or herself with knowledge about a person, I have to say he is probably one of the most qualified persons I have ever asked the President to put on the bench.

His academic background is so superb that no one can challenge it. If Harvard Law School is a good law school, and he was among its best students—magna cum laude—all of the attributes of a great mind that was being moved and melded into a great leader mind, that happened to him. From that time on, he has been engaged in various activities that have made him a broad-based lawyer to take this job.

He was a circuit judge in New Mexico, which caused him over time to publish 300 opinions, Mr. President. If people do not know him, they have not bothered to read his opinions.

Whether it is being scholarly, whether he understands, whether he plays no favorites, whether he is truly a good judge, in what judges do besides knowing the law—adding all that together, the Senator from New Mexico recommended him to the President. He was thoroughly vetted at the executive branch, and obviously the background checks have occurred, and he came forth with all the right pluses attendant his name.

Today, the 5- or 6-month ordeal which all candidates face—families worrying, wives and children wondering how much longer—will come to an end, and he will be sitting on the bench in the southwestern United States.

I ask unanimous consent that his vitae and the Department of Justice analysis of his background be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARRIS L. HARTZ
BIOGRAPHY

Harris L. Hartz is a magna cum laude graduate of Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review. He received his AB degree from Harvard College summa cum laude in physics. At Harvard he was one of 9 members of his class elected to Phi Beta Kappa in their junior year.

From 1989 to 1999, Hartz served as a judge on the New Mexico Court of Appeals for eleven years. During that time he authored approximately 300 published opinions. In 1997, Judge Hartz was elevated to the position of Chief Judge. During his last year on the Court, he was a member of the Executive Committee of the American Bar Association Council of Chief Judges.

In 1999 Judge Hartz resigned from the Court of Appeals to join the law firm of Stier, Anderson & Malone as special counsel to the International Brotherhood of Teamsters. He has worked with the Union to develop a Code of Conduct and an internal system for compliance and enforcement.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, New Mexico. During his first three years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent three years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as Executive Director. For the following nine years he was in private practice, primarily in civil litigation.

Judge Hartz has been active in the American Law Institute since 1993 and now serves as an Adviser for the Restatement of the Law (Third) Agency. He has also participated in activities of the American Bar Association, including membership on the Appellate Practice Committee of the Appellate Judges Conference and the Advisory Committee to the ABA Standing Committee on Law and National Security.

His past civic activities have included being Chair of the New Mexico Racing Commission, where his efforts against drugging of racehorses led to his nomination for the Joan Pew Award and his being appointed co-chair of the Quality Assurance Committee of the National Association of State Racing Commissioners. For the past two years Judge Hartz has been chair of the New Mexico Rhodes Scholarship Selection Committee and chair of the Selection Committee for the New Mexico Ethics in Business Awards. He is active in Rotary, and has served as President of the Rotary Club of Albuquerque.

HARRIS L. HARTZ
RESUMÉ

Birth: January 20, 1974, Baltimore, Maryland
Legal Residence: New Mexico
Education: 1963–1967—Harvard College, A.B. degree, summa cum laude; 1969–1972—Harvard Law School, J.D. degree, magna cum laude
Bar Admittance: 1972—New Mexico; 2000—District of Columbia
Experience: 1972–1975—U.S. Attorney's Office for the District of New Mexico, Assistant U.S. Attorney; 1976—University of Illinois College of Law, Visiting Assistant Professor of Law; 1976–1979—New Mexico Governor's Organized Crime Prevention Commission, Counsel, 1976–1977 & Executive Director, 1977–1979; 1979–1982—Poole, Tinnin & Martin, PA Associate; 1982–1988—Miller, Stratvert & Torgerson, Associate, 1982–83 & Shareholder, 1983–88; 1988–1999—New Mexico Court of Appeals Judge (Chief Judge, 1997–99); 1999–present—Stier, Anderson & Malone, LLC Special Counsel

HARRIS L. HARTZ
SUPPORT

Senator Jeff Bingaman, Democrat from New Mexico

''I have known Harris Hartz for many years, and I consider him to be qualified for this position.''—The Albuquerque Journal, June 22, 2001.

Senator Peter Domenici, Republican from New Mexico

''I am extremely pleased President Bush has nominated Harris, who has an impressive record of achievement.''—The Daily Times, June 22, 2001.

''He has truly outstanding credentials and will make New Mexico proud as a new fixture on the 10th Circuit.''—The Albuquerque Journal, June 22, 2001.

Editorial, The Santa Fe New Mexican

''The cerebral and academic Hartz is everything America wants in its judiciary.''

''But even though appointment-killing has become a popular sport among both parties, Hartz has the credentials—and the class—to overcome any political pettifoggery that might arise in the course of his confirmation.''

''Hartz will be making 'case law' at a high level, setting precedents to which lawyers look as they build their own cases. Both are daunting tasks—but both are well within Hartz's grasp.''—June 23, 2001.

Lance Liebman, Professor at Columbia Law School

''I have seen his contributions to half a dozen different areas of law. Just as he was

as a student, Harris is smart, serious, balanced, and interesting. I am sure he was a good state judge and I am certain he will be a great addition [to the federal bench]. . .''—Excerpt from letter to Senators Leahy and Hatch, August 3, 2001.

Roberta Ramo, Former President of the American Bar Association

''As a former president of the American Bar Association, I have had the honor of knowing many of our finest judges. Among the elements of American democracy of which I am most proud stands the quality of our Federal Judiciary. Should he be confirmed by the United States Senate, I believe Mr. Hartz will, in his service, make each of us proud that we had a part in placing him on the 10th circuit.''—Excerpt from letter to Senator Hatch, August 9, 2001.

Mr. DOMENICI. Mr. President, I would like to share a quote from an editorial in one of our State's leading newspapers, the *Santa Fe New Mexican*:

The cerebral and academic Hartz is everything America wants in its judiciary.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, NM. During his first 3 years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent 3 years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as executive director.

I believe Judge Hartz will be an excellent U.S. circuit judge because above all he is a person with great strength of character. He has the courage to render decisions in accordance with the Constitution and the laws of the United States. More important, I believe Judge Hartz will respect both the rights of the individual and the rights of society and will be dedicated to providing equal justice under the law. He understands and appreciates the genius of our Federal system and the delicate checks and balances among the branches of our National Government.

Judge Hartz also understands New Mexico because he was raised in Farmington. Judge Hartz's 29 years of experience both as a lawyer and a judge have prepared him well for the Tenth Circuit Court of Appeals. I believe Judge Hartz will be a fine circuit judge. I count him among my friends, and I recommend him highly to the Senate.

Mr. LEAHY. Mr. President, today, the Senate is taking final action on three additional judicial nominations. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of 1 circuit court and 2 district court judges will bring the total number of judges confirmed this year to 21. When the Senate completes its action on the nomination of the remaining 6 district court judges, we will have confirmed 27 judges since July, including 6 to the Courts of Appeals.

I congratulate today's nominees and their families on their nominations, confirmations, and what is soon to be their appointments to the United States Court of Appeals for the Tenth Circuit and the United States District courts for Kentucky and the District of Oklahoma. I also commend each of the Senators who worked with the committee and the majority leader to help bring these nominations forward and to have the Senate act to confirm them.

The nominee to the Tenth Circuit Court of Appeals, Harris Hartz, comes to us with the strong support of both Senator DOMENICI and Senator BINGAMAN. He was the first nominee to a Court of Appeals received by the Senate this June. His nomination is an example of the sort of progress we can make on consensus nominees with bipartisan support. The Tenth Circuit is one of many Courts of Appeals with multiple vacancies, and which has had multiple vacancies long before this summer. My recollection is that President Clinton had at least two nominees for vacancies on the Tenth Circuit pending in 1999 and for several months last year, but neither was ever accorded a hearing or a vote before the Judiciary Committee or before the Senate. Had they and other previous nominees been acted upon promptly and favorably in years just past, of course, the circumstances in the Tenth Circuit and many other courts around the country would be different today. During 6½ years, the Republican majority in the Senate allowed only 46 nominees to be confirmed to the Courts of Appeals and left dozens of vacancies unfilled.

Just as we recently proceeded to confirm the first judge to the Fifth Circuit in 7 years, we are proceeding with Judge Hartz to provide some immediate relief to the Tenth Circuit. When confirmed, Judge Hartz will be the first new member of the Tenth Circuit in the last 6 years—since judges were confirmed to that Court in 1995 from Utah and Colorado.

Over the past 6½ years the average time it has taken for the Senate to consider and confirm Court of Appeals nominees had risen to almost 350 days. The time it has taken for Judge Hartz's nomination is about half of that, if measured from his initial nomination in June 2001. Of course, that nomination was returned to the White House when the Republican leader objected to keeping judicial nominations pending over the August recess. Accordingly, the nomination on which the Senate acts today was not received until this September. If measured from the time the committee received his ABA peer review to the time of his confirmation today, the process has taken only 112 days. He participated in one of the many October hearings and, having answered the written questions following his hearing, was reported by the committee in November.

The strong bipartisan support he has received from his Senate delegation paved the way for prompt action in one-third to one-half the time it used to take on average to consider Court of Appeals nominees. Both of the district court nominees, Danny Reeves from the Eastern District of Kentucky and Joe Heaton for the Western District of Oklahoma, whom I supported at the committee and am pleased to support today, have moved through the process with the support of Democrats and Republicans relatively quickly.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today's confirmation of one circuit court and two district court judges will bring the total number of judges confirmed to 21. When the Senate completes its action on the nomination of the remaining six district court judges, we will have confirmed 27 judges since July, including six to the Courts of Appeals. That will be almost twice the total number of judges that were confirmed in all of 1989, the first year of the first Bush administration, and will include twice as many judges to the Courts of Appeals as were confirmed in the first year of the Clinton administration. It is also more judges that were confirmed in all of the 1996 session. Thus, despite all the obstacles, we exceeded the number of confirmations of judges during the first year of the first Bush administration by six, the last year of the first Clinton term by four, and we are on pace to confirm as many judges as were confirmed in the first year of the Clinton administration.

Our total of six Court of Appeals confirmations doubles the number of appellate court judges confirmed in the entire first year of the Clinton administration, one more than the number of appellate court judges confirmed in the first full year of the first Bush administration, and six more than were confirmed in the entire 1996 session, the last year of President Clinton's first term.

When I assumed the chairmanship, the number of vacancies on the Federal Bench was over 100 and quickly rose to 111. Since July, we have made significant progress. In spite of the upheavals we have experienced this year with the shifts in chairmanship, the vacancies that have arisen since this summer, and the need to focus our attention on responsible action in the fight against international terrorism, with the confirmation of these 9 nominees we will have reduced the number of vacancies to below 100 for the first time since early this year.

During the time a Republican majority controlled the process over the past 6½ years, the vacancies rose from 65 to at least 103, an increase of almost 60 percent. We are making strides to improve on that record. The President has yet to send nominations to fill more than half of the current vacancies. This is a particular problem with

the 71 district court vacancies, for which 49—that's 69 percent—do not have nominations pending.

We have been able to reduce vacancies over the last 6 months through hard work and a rapid pace of scheduling hearings. Until I became chairman of the Judiciary Committee, no judicial nominees had been given hearings this year. No judicial nominees had been considered by the Judiciary Committee or been voted upon by the Senate. After almost a month's delay in the reorganization of the Senate in June while Republicans sought leverage to change the way the judicial nominations had traditionally been considered and abruptly abandoned the practices that they had employed for the last 6½ years, I noticed our first hearing on judicial nominees within 10 minutes of the reorganization resolution being adopted by the Senate.

I have previously noted that during the 6½ years the Republican majority most recently controlled the confirmation process, in 34 of those months they held no confirmations for any judicial nominees at all, and in 30 other months they conducted only a single confirmation hearing involving judicial nominees. Since the committee was assigned its members in early July 2001, I have held confirmation hearings every months, including two in July, two during the August recess and three hearings during October. Only once during the previous 6½ years has the committee held as many as three hearings in a single month.

On the other hand, on at least three occasions during the past 6½ years the committee had gone more then 5 months without holding a single hearing on a pending judicial nominee. We have held more hearings involving judicial nominees since July 11, 2001, than our Republican predecessors held in all of 1996, 1997, 1999, or 2000. In the last 6 months of this extraordinarily challenging year, the committee has held 10 hearings involving judicial nominees. Just this week the committee held our tenth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. Since September 11, the Judiciary Committee has held six judicial confirmation hearings.

We have held hearings on 33 judicial nominees, including 7 to the Courts of Appeals. Since September 11 we have held hearings on 26 judicial nominees, including 4 to the Courts of Appeals. Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the 2 judicial nominees who drove to Washington while air travel was still disrupted. Then on October 4, 2001, we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in the wake of the receipt of a letter containing anthrax spores and in spite of the fact that Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

On October 25, 2001, while the Senate Republicans were shutting down the Senate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees. On November 7, 2001, we convened another hearing for judicial nominees within 8 extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. The hearing on November 7 was delayed by another unfortunate and unforeseen event when one of the family members of a nominee grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

On December 5, 2001, we convened another hearing for another group of five judicial nominees. I thank Senator DURBIN for volunteering to chair that hearing for nominees from Alabama, Colorado, Georgia, Nevada, and Texas. We have previously considered and reported other nominees from Alabama, Georgia, and Nevada, as well. We have accomplished more, and at a faster pace, than in years past. Even with the time needed by the FBI to follow up on the allegations that arose regarding Judge Wooten in connection with his confirmation hearing, we have proceeded much more quickly than at any time during the last 6½ years. Thus, while the average time from nomination to confirmation grew to well over 200 days for the last several years, we have considered nominees much more promptly. Measured from receipt of their ABA peer reviews, we have confirmed the judges this year, including the Court of Appeals nominees, on average in less than 60 days. So, we are working harder than ever on judicial nominations despite the difficulties being faced by the Nation, the Senate, and a number of members on the committee.

We have also completed work on a number of judicial nominations in a more open manner than ever before. For the first time, this committee is making public the ''blue slips'' sent to home State Senators. Until my chairmanship, these matters were treated as confidential materials and restricted from public view. We have moved nominees with little or no delay at all from hearing, on to the committee's business meeting agenda, and then out to the floor, where nominees have received timely rollcall votes and confirmations.

The past practices of extended unexplained anonymous holds on nominees after a hearing have not been evident in the last 6 months of this year as they were in the past. Indeed over the past 6½ years at least eight judicial nominees who completed a confirmation hearing were never considered by the committee but left without action. Just last year two of the three Court of Appeals nominees reported to the Senate, Bonnie Campbell of Iowa and Allen Snyder of the District of Columbia, were both denied committee consideration from their May hearings until the end of the year. Likewise the extended, unexplained, anonymous holds on the Senate Executive Calendar that characterized so much of the last 6½ years have not slowed the confirmation process this year.

Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar. And once those judicial nominees have been afforded a timely rollcall vote, the record shows that the only vote against any of President Bush's nominees to the Federal courts to date was cast by the Republican leader.

In addition to our work on judicial nominations, during the recent period since September 11, the committee also devoted significant attention and effort to expedited consideration of antiterrorism legislation. Far from taking a ''time out'' as some have suggested, the Judiciary Committee has been in overdrive since July and we have redoubled our efforts after September 11, 2001. With respect to law enforcement, I have noted that the administration was quite slow in making U.S. attorney nominations, although it had called for the resignations of U.S. attorneys early in the year.

Since we began receiving nominations just before the August recess, we have been able to report, and the Senate has confirmed, 57 of these nominations. We have only a few more U.S. attorney nominations received in November, and await approximately 30 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. marshal positions. U.S. marshals are often the top Federal law enforcement officer in their district. They are an important front-line component in homeland security efforts across the country. We are near the end of the legislative year without a single nomination for these 94 critical law enforcement positions. It will likely be impossible to confirm any U.S. marshals this year having not received any nominations in the first 11 months of the year.

In the wake of the terrorist attacks on September 11, some of us have been seeking to join together in a bipartisan effort in the best interests of the country. For those on the committee who have helped in those efforts and assisted in the hard work to review and consider the scores of nominations we have reported this year, I thank them. As the facts establish and as our actions today and all year demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees.

I am proud of the work the committee has done on nominations, and I am proud that by the end of the day we will have confirmed 21 judges. I hope that by the end of this session that total will rise to about 30 as the committee continues its work on the nominations heard this week and the Senate confirms the additional 6 nominees who were voted out of committee last week.

Mr. HATCH. Mr. President, I am pleased today we are considering the nominations of three extremely well-qualified individuals for the Federal bench.

Our circuit court nominee is the Honorable Harris Hartz of New Mexico, whom the President has selected to serve on the Tenth Circuit Court of Appeals. I have a personal interest in the confirmation of fair, qualified judges to serve on the Tenth Circuit since it encompasses the great state of Utah. In fact, there is an eminently well-qualified nominee from Utah for the Tenth Circuit, University of Utah Law Professor Michael McConnell, who is awaiting a hearing from the Judiciary Committee. His nomination has been pending for 211 days without a hearing. There are two other nominees for the Tenth Circuit who are also awaiting hearings on their nominations: Timothy Tymkovich of Colorado, who has been waiting 195 days, and Terrence O'Brien of Wyoming, who has been waiting 126 days.

Part of the holdup has unquestionably been due to lack of action by the Judiciary Committee, but the ABA must shoulder some of the blame as well. It took the ABA over 8 weeks to return its evaluation of Michael McConnell, which, incidentally, was a rating of unanimously well qualified, over 15 weeks for Timothy Tymkovich, and over 12 weeks for Terrence O'Brien. The last of these three ratings was submitted in October, so there is no excuse for any of these nominations stalling any longer. I look forward to the opportunity to consider their nominations at hearings so that the pending vacancies on the Tenth Circuit can be expediently filled.

Our consideration of Judge Hartz's nomination today is a positive step in that direction. His impressive legal career began—atypically—with a degree from Harvard College summa cum laude in physics. Later, he graduated magna cum laude from Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review.

Judge Hartz's legal experience began in Albuquerque, NM, as an Assistant United States Attorney. After that, he taught for a semester at the University of Illinois College of Law, and then returned to New Mexico to work with the New Mexico Governor's Organized Crime Prevention Commission. For the following 9 years he was in private practice, primarily in civil litigation, and then he served for 11 years as a judge on the New Mexico Court of Appeals. Currently, Judge Hartz works as special counsel to the International Brotherhood of Teamsters, developing a Code of Conduct and an internal system for compliance and enforcement. As you can see, he is a highly competent and hard-working person who is eminently well qualified to serve as a judge on the Tenth Circuit.

In addition to Judge Hartz, we have the privilege of considering the nomination of two district court nominees. One of these nominees is Joe Heaton for the U.S. District Court for the Western District of Oklahoma. Mr. Heaton is a native Oklahoman with an outstanding record of legal experience and public service. After graduating from the University of Oklahoma College of Law—where he was Order of the Coif—he maintained a general civil practice with an emphasis in business and commercial matters. For 8 years, Mr. Heaton served as a member of the Oklahoma House of Representatives, including several years as Minority Leader. Then, in 1996, Mr. Heaton began serving in his current position as the First Assistant U.S. Attorney for the Western District of Oklahoma, where he has earned a good reputation while handling a wide variety of legal matters.

Our second district court nominee is Danny C. Reeves for the U.S. District Court for the Eastern District of Kentucky. He began his legal career as a law clerk for then-district Judge Eugene Siler, who now sits on the Sixth Circuit. Mr. Reeves then joined the Lexington office of Greenebaum, Doll & McDonald, where he rose to the rank of partner in 1988. Despite his busy legal career, he has served as a director of the Volunteer Center of the Bluegrass, the Kentucky Museum of Natural History, and the Bluegrass Youth Hockey Association.

Again, Mr. President, I am pleased to see such well-qualified nominees being brought before the Senate for consideration. Each of these nominees received unanimous support from the Members of the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I commend President Bush for nominating persons who will bring honor and dignity to the Federal bench, and I urge my colleagues to join me in supporting their nominations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered on the nomination. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 353 Ex.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Helms	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Gramm

The nomination was confirmed.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. NICKLES. I move to lay that on the table.

The motion to reconsider was laid upon the table.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider en bloc Executive Calendar Nos. 585 and 588.

Mr. NICKLES. May we have order.

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order.

The nominations will be stated.

THE JUDICIARY

The legislative clerk read the nomination of Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

The legislative clerk read the nomination of Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

The PRESIDING OFFICER. Under the previous order, the nominations are confirmed. The President will be immediately notified of the Senate's action.

NOMINATION OF DANNY C. REEVES

Mr. BUNNING. Mr. President, I thank my colleagues for their support of the nomination of Danny Reeves to be a Federal District Judge for the Eastern District of Kentucky.

Danny is a Kentucky native. He grew up in Corbin in the eastern part of our Commonwealth, and later went to college at Eastern Kentucky University. He then graduated with honors from the Chase Law School in northern Kentucky, and clerked for one of Kentucky's leading jurists on the Federal bench, Gene Siler.

Since then, Danny has practiced exclusively at a prominent Kentucky firm, specializing in complex civil litigation. In that time, he has not only represented a number of Kentucky's leading businesses, but he has also done a great deal of community service work, focusing on title IX compliance for the Kentucky High School Athletic Association.

To be honest, I did not know Danny before I sat down earlier this year to talk with him about his interest in sitting on the Federal bench. But in the conversations we have had, it became clear that he is a bright, articulate lawyer who has the demeanor and integrity to be a fine judge. I enthusiastically support his nomination.

I thank my colleagues for voting for this nomination. Danny Reeves knows the people of eastern Kentucky, he knows the law and he knows how the Federal bench in the Eastern District works. He is going to be able to hit the ground running, and he is going to do an exemplary job. The President made a fine choice in nominating him, and the sooner the Senate can confirm him, the better it will be for justice in Kentucky.

NOMINATION OF JOSEPH L. HEATON

Mr. NICKLES. Mr. President, I am pleased the Senate has just confirmed Joe Heaton, an outstanding individual and a superb attorney, to be U.S. district court judge for Oklahoma's Western District.

President Bush could not have made a finer selection to serve our country as a district court judge. Joe Heaton is exceptionally well qualified and will prove to be a great asset to the judicial system in Oklahoma and our country.

Joe graduated from Northwestern State College in his home town of Alva, OK, in 1973. Even before his graduation, Joe's commitment to public service was already evident. While still in school, he was elected to the Alva City Council and later was elected to serve as council president. Following graduation from college, Joe attended the University of Oklahoma School of Law where he excelled, making Oklahoma Law Review and Order of the Coif. He was also on the Dean's honor roll and won American Jurisprudence Awards in Constitutional Law and Conflicts of Law. Upon his graduation from law school Joe continued to dedicate himself to public service, this time coming here to Washington to serve as Legislative Assistant to Senator Dewey Bartlett.

Returning to Oklahoma in 1977 he practiced law with the prestigious firm of Fuller, Tubb & Pomeroy. He is respected by his colleagues as an ''honorable and trustworthy leader and friend.'' While engaged in civil practice, Joe was elected to the Oklahoma House of Representatives where he served until 1992. In this capacity as a State legislator, Joe served as the Republican leader for 3 years. His fellow legislators have described him as possessing the qualities needed on the Federal bench.

In 1991, I was pleased to recommend Joe's appointment to serve as U.S. attorney for the Western District of Oklahoma. He joined the U.S. attorney's office as a special assistant U.S. attorney and served in that capacity until 1992 when he became the U.S. attorney. In 1993, Joe returned to private practice until 1996 when then U.S. attorney, Patrick Ryan, asked him to return to the U.S. attorney's office. For the next 2 years, Joe was acting U.S. attorney while Mr. Ryan was in Denver in connection with the Oklahoma City bombing trials of Timothy McVeigh and Terry Nichols. Once again, Joe exhibited his strong commitment to serving Oklahoma and the Nation.

Joe and his wife Dee Anne are very active in their church where Joe serves as an Elder. They are proud of their two sons, Andrew and Adam. I congratulate Joe and his family on his having earned the position for which President Bush has selected him. I thank Chairman LEAHY and Ranking Member HATCH for their work on Joe Heaton's nomination. I applaud the Senate for confirming him as he will make an outstanding judge who will work diligently to administer justice while serving as a Federal district court judge.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AGRICULTURAL CONSERVATION AND RURAL ENHANCEMENT ACT OF 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will resume consideration of the motion to proceed to S. 1731, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to consider S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, provide for farm credit, agricultural research, nutrition, and related programs, and to ensure consumers abundant food and fiber.

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, the motion to proceed is agreed to. The motion to reconsider is laid upon the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3338, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS, 2002

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $23,446,734,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $19,465,964,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $7,335,370,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements),

and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund, $20,032,704,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,670,197,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,650,523,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $466,300,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,061,160,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,052,695,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,783,744,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $10,794,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,941,588,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,569,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $27,038,067,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $2,903,863,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,998,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $26,303,436,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $12,864,644,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $33,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,771,246,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,003,690,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $144,023,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,023,866,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $3,743,808,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $3,998,361,000.

UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $9,096,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $389,800,000, to remain available until transferred: Provided,

That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $257,517,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $385,437,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $23,492,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $230,255,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), $44,700,000, to remain available until September 30, 2003.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $357,000,000, to remain available until September 30, 2004: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), $15,800,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,893,891,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,774,154,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,174,546,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,171,465,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 29 passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,160,186,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $8,030,043,000, to remain available for obligation until September 30, 2004.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support

equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $1,478,075,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $442,799,000, to remain available for obligation until September 30, 2004.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $138,890,000;

SSGN (AP), $279,440,000;

NSSN, $1,608,914,000;

NSSN (AP), $684,288,000;

CVN Refuelings, $1,118,124,000;

CVN Refuelings (AP), $73,707,000;

Submarine Refuelings, $382,265,000;

Submarine Refuelings (AP), $77,750,000;

DDG–51 destroyer program, $2,966,036,000;

Cruiser conversion (AP), $458,238,000;

LPD–17 (AP), $155,000,000;

LHD–8, $267,238,000;

LCAC landing craft air cushion program, $52,091,000;

Prior year shipbuilding costs, $725,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transformation transportation, $307,230,000;

In all: $9,294,211,000, to remain available for obligation until September 30, 2006: Provided, That additional obligations may be incurred after September 30, 2006, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 152 passenger motor vehicles for replacement only, and the purchase of five vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000 per unit for two units and not to exceed $115,000 per unit for the remaining three units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,146,338,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 25 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $974,054,000, to remain available for obligation until September 30, 2004.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $10,617,332,000, to remain available for obligation until September 30, 2004.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,657,522,000, to remain available for obligation until September 30, 2004.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $873,344,000, to remain available for obligation until September 30, 2004.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 216 passenger motor vehicles for replacement only, and the purchase of three vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $200,000; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $8,144,174,000, to remain available for obligation until September 30, 2004.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 115 passenger motor vehicles for replacement only; the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $1,473,795,000, to remain available for obligation until September 30, 2004.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $15,000,000 to remain available until expended.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $560,505,000, to remain available for obligation until September 30, 2004: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $6,742,123,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation,

lease, and operation of facilities and equipment, $10,742,710,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $13,859,401,000, to remain available for obligation until September 30, 2003.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $14,445,589,000, to remain available for obligation until September 30, 2003.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $216,855,000, to remain available for obligation until September 30, 2003.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; $1,826,986,000: Provided, That during fiscal year 2002, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 330 passenger carrying motor vehicles for replacement only for the Defense Security Service.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), $407,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $18,376,404,000, of which $17,656,185,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2003; of which $267,915,000, to remain available for obligation until September 30, 2004, shall be for Procurement; of which $452,304,000, to remain available for obligation until September 30, 2003, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,104,557,000, of which $739,020,000 shall be for Operation and maintenance to remain available until September 30, 2003, $164,158,000 shall be for Procurement to remain available until September 30, 2004, and $201,379,000 shall be for Research, development, test and evaluation to remain available until September 30, 2003.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $865,981,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $152,021,000, of which $150,221,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,800,000 to remain available until September 30, 2004, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $144,776,000, of which $28,003,000 for the Advanced Research and Development Committee shall remain available until September 30, 2003: Provided, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2004, and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2003: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities to conduct document exploitation of materials collected in Federal, State, and local law enforcement activity.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, $75,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS—DEPARTMENT OF DEFENSE

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may

not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to March 31, 2002.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C–17; and

F/A–18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress on September 30 of each year: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2002, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2002 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2003.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services

required by the patient, and the availability of that care.

SEC. 8018. Funds available in this Act and hereafter may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2002 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8021. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8022. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8023. During the current fiscal year and hereafter, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, United States Code, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, United States Code, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, United States Code, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8024. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8025. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8026. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8027. Of the funds made available in this Act, not less than $61,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,300,000 shall be available from ''Military Personnel, Air Force'', $37,400,000 shall be available from ''Operation and Maintenance, Air Force'', and $20,400,000 shall be available from ''Aircraft Procurement, Air Force'': Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2002: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2003 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8028. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase ''qualified nonprofit agency for the blind or other severely handicapped'' means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8029. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8030. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8031. Of the funds made available in this Act, not less than $24,303,000 shall be available for the Civil Air Patrol Corporation, of which $22,803,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes $1,500,000 for the Civil Air Patrol counterdrug program: Provided, That funds identified for ''Civil Air Patrol'' under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8032. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2002 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2002, not more than 6,227 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2003 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SEC. 8033. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of

Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8034. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8036. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2001. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8037. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8039. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 2002, a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2003 budget request was reduced because the Congress appropriated funds above the President's budget request for that specific activity for fiscal year 2002.

SEC. 8040. Notwithstanding any other provision of law, funds available for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8041. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8042. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8043. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

SEC. 8044. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2003 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2003 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2003 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8045. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2003: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

SEC. 8046. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8047. Of the funds appropriated by the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8048. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated elsewhere in this Act, $10,000,000 is hereby appropriated to the Department of Defense: Provided, That at the direction of the Assistant Secretary of Defense for Reserve Affairs, these funds shall be transferred to the Reserve component personnel accounts in Title I of this Act: Provided further, That these funds shall be used for incentive and bonus programs that address the most pressing recruitment and retention issues in the Reserve components.

SEC. 8050. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8051. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8052. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8053. During the current fiscal year and hereafter, funds appropriated or made available by the transfer of funds in this or subsequent Appropriations Acts, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) until the enactment of the Intelligence Authorization Act for that fiscal year and funds appropriated or made available by transfer of funds in any subsequent Supplemental Appropriations Act enacted after the enactment of the Intelligence Authorization Act for that fiscal year are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8054. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8055. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts in the specified amounts:

''Aircraft Procurement, Army, 2001/2003'', $15,500,000;

''Aircraft Procurement, Air Force, 2001/2003'', $43,983,000;

''Missile Procurement, Air Force, 2001/2003'', $58,550,000;

''Procurement, Defense-Wide, 2001/2003'', $64,170,000;

''Research, Development, Test and Evaluation, Air Force, 2001/2002'', $13,450,000; and

''Research, Development, Test and Evaluation, Defense-Wide, 2001/2002'', $5,664,000.

SEC. 8056. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8057. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8058. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8059. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8060. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act, for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8061. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', $12,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

SEC. 8062. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8063. Appropriations available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8064. None of the funds made available in this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8065. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8066. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8067. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8068. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8069. Of the funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'', up to $5,000,000 shall be available to provide assistance, by grant or otherwise, to public school systems that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments: Provided further, That up to $2,000,000 shall be available for DOD to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to

non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a federal agency provides this assistance, by contract, grant or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8070. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8071. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8072. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8073. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8074. Up to $3,000,000 of the funds appropriated under the heading ''Operation and Maintenance, Navy'' in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8075. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8076. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ''Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8077. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8078. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8079. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: Provided, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8080. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8081. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8082. Notwithstanding 31 U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8083. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8084. Of the funds made available under the heading ''Operation and Maintenance, Air Force'', not less than $1,500,000 shall be made available by grant or otherwise, to the Council of Athabascan Tribal Governments, to provide assistance for health care, monitoring and related issues associated with research conducted from 1955 to 1957 by the former Arctic Aeromedical Laboratory.

SEC. 8085. In addition to the amounts appropriated or otherwise made available in this Act, $5,000,000, to remain available until September

30, 2002, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the American Red Cross for Armed Forces Emergency Services.

SEC. 8086. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8087. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8088. Funds made available to the Civil Air Patrol in this Act under the heading ''Drug Interdiction and Counter-Drug Activities, Defense'' may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: Provided, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8089. Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259), is hereby repealed.

SEC. 8090. Of the funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Navy'', up to $3,000,000 may be made available for a Maritime Fire Training Center at Barbers Point, including provision for laboratories, construction, and other efforts associated with research, development, and other programs of major importance to the Department of Defense.

SEC. 8091. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8092. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8093. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $140,591,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

''Operation and Maintenance, Army'', $89,359,000;

''Operation and Maintenance, Navy'', $15,445,000;

''Operation and Maintenance, Marine Corps'', $1,379,000;

''Operation and Maintenance, Air Force'', $24,408,000; and

''Operation and Maintenance, Defense-Wide'', $10,000,000.

SEC. 8094. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8095. Notwithstanding any other provision of law, the total amount appropriated in this Act under Title I and Title II is hereby reduced by $50,000,000: Provided, That during the current fiscal year, not more than 250 military and civilian personnel of the Department of Defense shall be assigned to legislative affairs or legislative liaison functions: Provided further, That of the 250 personnel assigned to legislative liaison or legislative affairs functions, 20 percent shall be assigned to the Office of the Secretary of Defense and the Office of the Chairman of the Joint Chiefs of Staff, 20 percent shall be assigned to the Department of the Army, 20 percent shall be assigned to the Department of the Navy, 20 percent shall be assigned to the Department of the Air Force, and 20 percent shall be assigned to the combatant commands: Provided further, That of the personnel assigned to legislative liaison and legislative affairs functions, no fewer than 20 percent shall be assigned to the Under Secretary of Defense (Comptroller), the Assistant Secretary of the Army (Financial Management and Comptroller), the Assistant Secretary of the Navy (Financial Management and Comptroller), and the Assistant Secretary of the Air Force (Financial Management and Comptroller).

SEC. 8096. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8097. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8098. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $171,296,000, to reduce cost growth in travel, to be distributed as follows:

''Operation and Maintenance, Army'', $9,000,000;

''Operation and maintenance, Marine Corps'', $296,000;

''Operation and Maintenance, Air Force'', $150,000,000;

''Operation and Maintenance, Army Reserve'', $2,000,000; and

''Operation and maintenance, Defense-wide'' $10,000,000.

SEC. 8099. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8100. (a) REGISTERING INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. An information technology system shall be considered a mission critical or mission essential information technology system as defined by the Secretary of Defense.

(b) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone I approval, Milestone II approval, or Milestone III approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term ''major automated information system'' has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8101. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8102. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API–T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8103. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8104. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8105. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8106. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term ''Native Hawaiian'' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8107. In addition to the amounts provided elsewhere in this Act, the amount of $10,000,000 is hereby appropriated for ''Operation and Maintenance, Defense-Wide'', to be available, notwithstanding any other provision of law, only for a grant to the United Service Organizations Incorporated, a federally chartered corporation under chapter 2201 of title 36, United States Code. The grant provided for by this section is in addition to any grant provided for under any other provision of law.

SEC. 8108. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $141,700,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $107,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and establishing an Arrow production capability in the United States: Provided further, That the remainder, $34,000,000, shall be available for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defense of Israel for the Arrow Deployability Program.

SEC. 8109. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8110. Of the amounts appropriated in this Act under the heading ''Operation and Maintenance, Defense-Wide'', $115,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8111. In addition to the amounts appropriated or otherwise made available in this Act, $1,300,000,000 is hereby appropriated to the Department of Defense for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) research, development, test and evaluation for ballistic missile defense; and

(2) activities for combating terrorism.

SEC. 8112. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of the Army shall make a grant in the amount of $5,000,000 to the Fort Des Moines Memorial Park and Education Center.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $5,000,000 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $5,000,000 to the National D-Day Museum.

SEC. 8114. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

SEC. 8115. (a) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) by redesignating subsection (m) as subsection (o); and

(2) by adding after subsection (l) the following:

''(m) AUTHORITY TO ESTABLISH MEMORIAL.—

''(1) IN GENERAL.—The Commission may establish a permanent memorial to Dwight D. Eisenhower on land under the jurisdiction of the Secretary of the Interior in the District of Columbia or its environs.

''(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).''.

(b) Section 8162 of the Department of Defense Appropriations Act, 2000 (16 U.S.C. 431 note; Public Law 106–79) is amended—

(1) in subsection (j)(2), by striking ''accept gifts'' and inserting ''solicit and accept contributions''; and

(2) by inserting after subsection (m) (as added by subsection (a)(2)) the following:

''(n) MEMORIAL FUND.—

''(1) ESTABLISHMENT.—There is created in the Treasury a fund for the memorial to Dwight D. Eisenhower that includes amounts contributed under subsection (j)(2).

''(2) USE OF FUND.—The fund shall be used for the expenses of establishing the memorial.

''(3) INTEREST.—The Secretary of the Treasury shall credit to the fund the interest on obligations held in the fund.''.

(c) In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $3,000,000, to remain available until expended is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $3,000,000 to the Dwight D. Eisenhower Memorial Commission for direct administrative support.

SEC. 8116. In addition to amounts appropriated elsewhere in this Act, $8,000,000 shall be available only for the settlement of subcontractor claims for payment associated with the Air Force contract F19628–97–C–0105, Clear Radar Upgrade, at Clear AFS, Alaska: Provided, That the Secretary of the Air Force shall evaluate claims as may be submitted by subcontractors, engaged under the contract, and, notwithstanding any other provision of law shall pay such amounts from the funds provided in this paragraph which the Secretary deems appropriate to settle completely any claims which the Secretary determines to have merit, with no right of appeal in any forum: Provided further, That subcontractors are to be paid interest, calculated in accordance with the Contract Disputes Act of 1978, 41 U.S.C. Sections 601–613, on any claims which the Secretary determines to have merit: Provided further, That

the Secretary of the Air Force may delegate evaluation and payment as above to the U.S. Army Corps of Engineers, Alaska District on a reimbursable basis.

SEC. 8117. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by $1,650,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support: Provided, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

SEC. 8118. In addition to amounts provided elsewhere in this Act, $21,000,000 is hereby appropriated for the Secretary of Defense to establish a Regional Defense Counter-terrorism Fellowship Program: Provided, That funding provided herein may be used by the Secretary to fund foreign military officers to attend U.S. military educational institutions and selected regional centers for non-lethal training: Provided further, That United States Regional Commanders in Chief will be the nominative authority for candidates and schools for attendance with joint staff review and approval by the Secretary of Defense: Provided further, That the Secretary of Defense shall establish rules to govern the administration of this program.

SEC. 8119. Notwithstanding any other provision of law, from funds appropriated in this or any other Act under the heading, ''Aircraft Procurement, Air Force'', that remain available for obligation, not to exceed $16,000,000 shall be available for recording, adjusting, and liquidating obligations for the C–17 aircraft properly chargeable to the fiscal year 1998 Aircraft Procurement, Air Force account: Provided, That the Secretary of the Air Force shall notify the congressional defense committees of all of the specific sources of funds to be used for such purpose.

SEC. 8120. Notwithstanding any provisions of the Southern Nevada Public Land Management Act of 1998, Public Law 105–263, or the land use planning provision of Section 202 of the Federal Land Policy and Management Act of 1976, Public Law 94–579, or of any other law to the contrary, the Secretary of the Interior may acquire non-federal lands adjacent to Nellis Air Force Base, through a land exchange in Nevada, to ensure the continued safe operation of live ordnance departure areas at Nellis Air Force Base, Las Vegas, Nevada. The Secretary of the Air Force shall identify up to 220 acres of non-federal lands needed to ensure the continued safe operation of the live ordnance departure areas at Nellis Air Force Base. Any such identified property acquired by exchange by the Secretary of the Interior shall be transferred by the Secretary of the Interior to the jurisdiction, custody, and control of the Secretary of the Air Force to be managed as a part of Nellis Air Force Base. To the extent the Secretary of the Interior is unable to acquire non-federal lands by exchange, the Secretary of the Air Force is authorized to purchase those lands at fair market value subject to available appropriations.

SEC. 8121. Of the amounts appropriated in this Act under the heading, ''Shipbuilding and Conversion, Navy'', $725,000,000 shall be available until September 30, 2002, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1995/2002'':

Carrier Replacement Program, $172,364,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1996/2002'':

LPD–17 Amphibious Transport Dock Ship Program, $172,989,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1997/2002'':

DDG–51 Destroyer Program, $37,200,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2002'':

NSSN Program, $168,561,000;

DDG–51 Destroyer Program, $111,457,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2002'':

NSSN Program, $62,429,000.

(TRANSFER OF FUNDS)

SEC. 8122. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 1990/2002'':

TRIDENT ballistic missile submarine program, $78,000;

SSN–21 attack submarine program, $66,000;

DDG–51 destroyer program, $6,100,000;

ENTERPRISE refueling modernization program, $964,000;

LSD–41 dock landing ship cargo variant ship program, $237,000;

MCM mine countermeasures program, $118,000;

Oceanographic ship program, $2,317,000;

AOE combat support ship program, $164,000;

AO conversion program, $56,000;

Coast Guard icebreaker ship program, $863,000;

Craft, outfitting, post delivery, and ship special support equipment, $529,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2002'':

DDG–51 destroyer program, $11,492,000;

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 1993/2002'':

DDG–51 destroyer program, $3,986,000;

LHD–1 amphibious assault ship program, $85,000;

LSD–41 dock landing ship cargo variant program, $428,000;

AOE combat support ship program, $516,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,034,000;

To:

Under the heading, ''Shipbuilding, and Conversion, Navy, 1998/2002'':

DDG–51 destroyer program, $6,049,000;

From:

Under the heading, ''Other Procurement, Navy, 2001/2003'':

Shallow Water MCM, $16,248,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2005'':

Submarine Refuelings, $16,248,000.

SEC. 8123. (a) The Secretary of Defense shall convey to Gwitchyaa Zhee Corporation the lands withdrawn by Public Land Order No. 1996, Lot 1 of United States Survey 7008, Public Land Order No. 1396, a portion of Lot 3 of United States Survey 7161, lands reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916, Lot 13 of United States Survey 7161, Lot 1 of United States Survey 7008 described in Public Land Order No. 1996, and Lot 13 of the United States Survey 7161 reserved pursuant to the instructions set forth at page 513 of volume 44 of the Interior Land Decisions issued January 13, 1916.

(b) Following site restoration and survey by the Department of the Air Force that portion of Lot 3 of United States Survey 7161 withdrawn by Public Land Order No. 1396 and no longer needed by the Air Force shall be conveyed to Gwitchyaa Zhee Corporation.

SEC. 8124. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the USS GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8125. (a) Not later than February 1, 2002, the Secretary of Defense shall report to the congressional defense committees on the status of the safety and security of munitions shipments that use commercial trucking carriers within the United States.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the Department of Defense's policies and practices for conducting background investigations of current and prospective drivers of munitions shipments.

(2) A description of current requirements for periodic safety and security reviews of commercial trucking carriers that carry munitions.

(3) A review of the Department of Defense's efforts to establish uniform safety and security standards for cargo terminals not operated by the Department that store munitions shipments.

(4) An assessment of current capabilities to provide for escort security vehicles for shipments that contain dangerous munitions or sensitive technology, or pass through high-risk areas.

(5) A description of current requirements for depots and other defense facilities to remain open outside normal operating hours to receive munitions shipments.

(6) Legislative proposals, if any, to correct deficiencies identified by the Department of Defense in the report under subsection (a).

(c) Not later than six months after enactment of this Act, the Secretary shall report to Congress on safety and security procedures used for U.S. munitions shipments in European NATO countries, and provide recommendations on what procedures or technologies used in those countries should be adopted for shipments in the United States.

SEC. 8126. In addition to the amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense, $15,000,000, to remain available until September 30, 2002 is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make a grant in the amount of $15,000,000 to the Padgett Thomas Barracks in Charleston, South Carolina.

SEC. 8127. (a) DESIGNATED SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—

(1) Notwithstanding any other provision of law, at events determined by the President to be special events of national significance for which the United States Secret Service is authorized pursuant to Section 3056(e)(1), title 18, United States Code, to plan, coordinate, and implement security operations, the Secretary of Defense, after consultation with the Secretary of the Treasury, shall provide assistance on a temporary basis without reimbursement in support of the United States Secret Service's duties related to such designated events.

(2) Assistance under this subsection shall be provided in accordance with an agreement that shall be entered into by the Secretary of Defense and the Secretary of the Treasury within 120 days of the enactment of this Act.

(b) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided; and

(2) the amount expended by the Department in providing the assistance.

(c) RELATIONSHIP TO OTHER LAWS.—The assistance provided under this section shall not be subject to the provisions of sections 375 and 376 of this title.

SEC. 8128. MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM. (a) The Secretary of the Air Force may, from funds provided in this Act or any future appropriations Act, establish a multi-year pilot program for leasing general purpose Boeing 767 aircraft in commercial configuration.

(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

(c) Under the aircraft lease Pilot Program authorized by this section:

(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein.

(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease.

(4) Subchapter IV of chapter 15 of Title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A–11, as in effect at the time of the lease.

(6) Lease arrangements authorized by this section may not commence until:

(A) The Secretary submits a report to the congressional defense committees outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

(B) A period of not less than 30 calendar days has elapsed after submitting the report.

(7) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

(d) No lease entered into under this authority shall provide for—

(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

(f) The authority provided under this section may be used to lease not more than a total of one hundred aircraft for the purposes specified herein.

SEC. 8129. From within amounts made available in the Title II of this Act, under the heading ''Operation and Maintenance, Army National Guard'', and notwithstanding any other provision of law, $2,500,000 shall be available only for repairs and safety improvements to the segment of Camp McCain Road which extends from Highway 8 south toward the boundary of Camp McCain, Mississippi and originating intersection of Camp McCain Road; and for repairs and safety improvements to the segment of Greensboro Road which connects the Administration Offices of Camp McCain to the Troutt Rifle Range: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings.

SEC. 8130. From funds made available under Title II of this Act, the Secretary of the Army may make available a grant of $3,000,000 to the Chicago Park District for renovation of the Broadway Armory, a former National Guard facility in the Edgewater community in Chicago.

SEC. 8131. Notwithstanding any other provision of law, none of the funds in this Act may be used to alter specifications for insulation to be used on U.S. naval ships or for the procurement of insulation materials different from those in use as of November 1, 2001, until the Department of Defense certifies to the Appropriations Committees that the proposed specification changes or proposed new insulation materials will be as safe, provide no increase in weight, and will not increase maintenance requirements when compared to the insulation material currently used.

SEC. 8132. The provisions of S. 746 of the 107th Congress, as reported to the Senate on September 21, 2001, are hereby enacted into law.

SEC. 8133. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

''§2228. Department of Defense strategic loan and loan guaranty program

''(a) AUTHORITY.—The Secretary of Defense may carry out a program to make direct loans and guarantee loans for the purpose of supporting the attainment of the objectives set forth in subsection (b).

''(b) OBJECTIVES.—The Secretary may, under the program, make a direct loan to an applicant or guarantee the payment of the principal and interest of a loan made to an applicant upon the Secretary's determination that the applicant's use of the proceeds of the loan will support the attainment of any of the following objectives:

''(1) Sustain the readiness of the United States to carry out the national security objectives of the United States through the guarantee of steady domestic production of items necessary for low intensity conflicts to counter terrorism or other imminent threats to the national security of the United States.

''(2) Sustain the economic stability of strategically important domestic sectors of the defense industry that manufacture or construct products for low-intensity conflicts and counter terrorism to respond to attacks on United States national security and to protect potential United States civilian and military targets from attack.

''(3) Sustain the production and use of systems that are critical for the exploration and development of new domestic energy sources for the United States.

''(c) CONDITIONS.—A loan made or guaranteed under the program shall meet the following requirements:

''(1) The period for repayment of the loan may not exceed five years.

''(2) The loan shall be secured by primary collateral that is sufficient to pay the total amount of the unpaid principal and interest of the loan in the event of default.

''(d) EVALUATION OF COST.—As part of the consideration of each application for a loan or for a guarantee of the loan under the program, the Secretary shall evaluate the cost of the loan within the meaning of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).''.

(2) The table of sections at the beginning of such section is amended by adding at the end the following new item:

''2228. Department of Defense strategic loan and loan guaranty program.''.

(b) Of the amounts appropriated by Public Law 107–38, there shall be available such sums as may be necessary for the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of direct loans and loan guarantees made under section 2228 of title 10, United States Code, as added by subsection (a).

SEC. 8134. REGULATION OF BIOLOGICAL AGENTS AND TOXINS. (a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

''SEC. 351A. ENHANCED CONTROL OF BIOLOGICAL AGENTS AND TOXINS.

''(a) REGULATORY CONTROL OF BIOLOGICAL AGENTS AND TOXINS.—

''(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

''(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

''(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

''(i) consider—

''(I) the effect on human health of exposure to the agent or toxin;

''(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

''(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

''(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

''(ii) consult with appropriate Federal departments and agencies, and scientific experts representing appropriate professional groups, including those with pediatric expertise.

''(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall, through rulemaking, revise the list as necessary to incorporate additions or deletions to ensure public health, safety, and security.

''(3) EXEMPTIONS.—The Secretary may exempt from the list under paragraph (1)—

''(A) attenuated or inactive biological agents or toxins used in biomedical research or for legitimate medical purposes; and

''(B) products that are cleared or approved under the Federal Food, Drug, and Cosmetic Act or under the Virus-Serum-Toxin Act, as amended in 1985 by the Food Safety and Security Act.'';

''(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

''(1) the establishment and enforcement of safety procedures for the transfer of biological

agents and toxins listed pursuant to subsection (a)(1), including measures to ensure—

''(A) proper training and appropriate skills to handle such agents and toxins; and

''(B) proper laboratory facilities to contain and dispose of such agents and toxins;

''(2) safeguards to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

''(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

''(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

''(c) POSSESSION AND USE OF LISTED BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of biological agents and toxins listed pursuant to subsection (a)(1) in order to protect the public health and safety, including the measures, safeguards, procedures, and availability of such agents and toxins described in paragraphs (1) through (4) of subsection (b), respectively.

''(d) REGISTRATION AND TRACEABILITY MECHANISMS.—Regulations under subsections (b) and (c) shall require registration for the possession, use, and transfer of biological agents and toxins listed pursuant to subsection (a)(1), and such registration shall include (if available to the registered person) information regarding the characterization of such biological agents and toxins to facilitate their identification and traceability. The Secretary shall maintain a national database of the location of such biological agents and toxins with information regarding their characterizations.

''(e) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to the regulations under subsections (b) and (c) to ensure their compliance with such regulations, including prohibitions on restricted persons under subsection (g).

''(f) EXEMPTIONS.—

''(1) IN GENERAL.—The Secretary shall establish exemptions, including exemptions from the security provisions, from the applicability of provisions of—

''(A) the regulations issued under subsection (b) and (c) when the Secretary determines that the exemptions, including exemptions from the security requirements, and for the use of attenuated or inactive biological agents or toxins in biomedical research or for legitimate medical purposes are consistent with protecting public health and safety; and

''(B) the regulations issued under subsection (c) for agents and toxins that the Secretary determines do not present a threat for use in domestic or international terrorism, provided the exemptions are consistent with protecting public health and safety.

''(2) CLINICAL LABORATORIES.—The Secretary shall exempt clinical laboratories and other persons that possess, use, or transfer biological agents and toxins listed pursuant to subsection (a)(1) from the applicability of provisions of regulations issued under subsections (b) and (c) only when—

''(A) such agents or toxins are presented for diagnosis, verification, or proficiency testing;

''(B) the identification of such agents and toxins is, when required under Federal or State law, reported to the Secretary or other public health authorities; and

''(C) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary in regulation.

''(g) SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

''(1) SECURITY.—In carrying out paragraphs (2) and (3) of subsection (b), the Secretary shall establish appropriate security requirements for persons possessing, using, or transferring biological agents and toxins listed pursuant to subsection (a)(1), considering existing standards developed by the Attorney General for the security of government facilities, and shall ensure compliance with such requirements as a condition of registration under regulations issued under subsections (b) and (c).

''(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Regulations issued under subsections (b) and (c) shall include provisions—

''(A) to restrict access to biological agents and toxins listed pursuant to subsection (a)(1) only to those individuals who need to handle or use such agents or toxins; and

''(B) to provide that registered persons promptly submit the names and other identifying information for such individuals to the Attorney General, with which information the Attorney General shall promptly use criminal, immigration, and national security databases available to the Federal Government to identify whether such individuals—

''(i) are restricted persons, as defined in section 175b of title 18, United States Code; or

''(ii) are named in a warrant issued to a Federal or State law enforcement agency for participation in any domestic or international act of terrorism.

''(3) CONSULTATION AND IMPLEMENTATION.—Regulations under subsections (b) and (c) shall be developed in consultation with research-performing organizations, including universities, and implemented with timeframes that take into account the need to continue research and education using biological agents and toxins listed pursuant to subsection (a)(1).

''(h) DISCLOSURE OF INFORMATION.—

''(1) IN GENERAL.—Any information in the possession of any Federal agency that identifies a person, or the geographic location of a person, who is registered pursuant to regulations under this section (including regulations promulgated before the effective date of this subsection), or any site-specific information relating to the type, quantity, or characterization of a biological agent or toxin listed pursuant to subsection (a)(1) or the site-specific security mechanisms in place to protect such agents and toxins, including the national database required in subsection (d), shall not be disclosed under section 552(a) of title 5, United States Code.

''(2) DISCLOSURES FOR PUBLIC HEALTH AND SAFETY; CONGRESS.—Nothing in this section may be construed as preventing the head of any Federal agency—

''(A) from making disclosures of information described in paragraph (1) for purposes of protecting the public health and safety; or

''(B) from making disclosures of such information to any committee or subcommittee of the Congress with appropriate jurisdiction, upon request.

''(i) CIVIL PENALTY.—Any person who violates any provision of a regulation under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding $250,000 in the case of an individual and $500,000 in the case of any other person. The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) small apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of the Social Security Act. The secretary may delegate authority under this section in the same manner as provided in section 1128A(j)(2) of the Social Security Act and such authority shall include all powers as contained in 5 U.S.C. App., section 6.''

''(j) DEFINITIONS.—For purposes of this section, the terms 'biological agent' and 'toxin' have the same meaning as in section 178 of title 18, United States Code.''.

(2) REGULATIONS.—

(A) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A(c) of the Public Health Service Act, which amends the Antiterrorism and Effective Death Penalty Act of 1996. Such interim final rule will take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(i) section 175(b) of title 18, United States Code (relating to criminal penalties), as added by subsection (b)(1)(B) of this section; and

(ii) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(B) SUBMISSION OF REGISTRATION APPLICATIONS.—A person required to register for possession under the interim final rule promulgated under subparagraph (A), shall submit an application for such registration not later than 60 days after the date on which such rule is promulgated.

(3) CONFORMING AMENDMENT.—Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

(4) EFFECTIVE DATE.—Paragraph (1) shall take effect as if incorporated in the Antiterrorism and Effective Death Penalty Act of 1996, and any regulations, including the list under subsection (d)(1) of section 511 of that Act, issued under section 511 of that Act shall remain in effect as if issued under section 351A of the Public Health Service Act.

(b) SELECT AGENTS.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

''(b) SELECT AGENTS.—

''(1) UNREGISTERED FOR POSSESSION.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulation issued under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

''(2) TRANSFER TO UNREGISTERED PERSON.—Whoever transfers a select agent to a person who the transferor has reasons to believe has not obtained a registration required by regulations issued under section 351A(b) or (c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.''.

(2) DEFINITIONS.—Section 175 of title 18, United States Code, as amended by paragraph (1), is further amended by striking subsection (d) and inserting the following:

''(d) DEFINITIONS.—As used in this section:

''(1) The terms 'biological agent' and 'toxin' have the meanings given such terms in section 178, except that, for purposes of subsections (b) and (c), such terms do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, cultured, collected, or otherwise extracted from its natural source.

''(2) The term 'for use as a weapon' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system, other than for prophylactic, protective, or other peaceful purposes.

''(3) The term 'select agent' means a biological agent or toxin, as defined in paragraph (1), that is on the list that is in effect pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132),

or as subsequently revised under section 351A(a) of the Public Health Service Act.''.

(3) CONFORMING AMENDMENT.—

(A) Section 175(a) of title 18, United States Code, is amended in the second sentence by striking ''under this section'' and inserting ''under this subsection''.

(B) Section 175(c) of title 18, United States Code, (as redesignated by paragraph (1)), is amended by striking the second sentence.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act, including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under section 351A(a)(1) of the Public Health Service Act;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A of the Public Health Service Act and for taking appropriate enforcement actions; and

(4) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A of the Public Health Service Act.

This division may be cited as the ''Department of Defense Appropriations Act, 2002''.

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)'', $39,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38: Provided, That of the amounts provided in this Act and any amounts available for reallocation in fiscal year 2002, the Secretary shall reallocate funds under section 17(g)(2) of the Child Nutrition Act of 1966, as amended, in the manner and under the formula the Secretary deems necessary to respond to the effects of unemployment and other conditions caused by the recession, and starting no later than March 1, 2002, such reallocation shall occur no less frequently than every other month throughout the fiscal year.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Commodity Futures Trading Commission'', $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $25,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Administrative Review and Appeals'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $6,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Attorneys'', $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Marshals Service'', $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for ''Salaries and Expenses'', $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $81,700,000 shall be for Northern Virginia, of which $81,700,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Crime Victims Fund'', $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction of Research Facilities'', $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations, Research and Facilities'', $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDINGS AND GROUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Care of the Buildings and Grounds'', $30,000,000, to remain available until expended for security enhancements, to be obligated from amounts made available in Public Law 107–38.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $5,000,000, is for Emergency Communications Equipment, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COURT SECURITY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Court Security'', $57,521,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for security of the Federal judiciary, of which not less than $4,000,000 shall be available to reimburse the United States Marshals Service for a Supervisory Deputy Marshal responsible for coordinating security in each judicial district and circuit: Provided, That the funds may be expended directly or transferred to the United States Marshals Service.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,879,000, to remain available until expended, to enhance security at the Thurgood Marshall Federal Judiciary Building, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Business Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Disaster Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. For purposes of assistance available under section 7(b)(2) and (4) of the Small Business Act (15 U.S.C. 636(b)(2) and (4)) to small business concerns located in disaster areas declared as a result of the September 11, 2001, terrorist attacks—

(i) the term ''small business concern'' shall include not-for-profit institutions and small business concerns described in United States Industry Codes 522320, 522390, 523210, 523920, 523991, 524113, 524114, 524126, 524128, 524210, 524291, 524292, and 524298 of the North American Industry Classification System (as described in 13 C.F.R. 121.201, as in effect on January 2, 2001);

(ii) the Administrator may apply such size standards as may be promulgated under such section 121.201 after the date of enactment of this provision, but no later than one year following the date of enactment of this Act; and

(iii) payments of interest and principal shall be deferred, and no interest shall accrue during the two-year period following the issuance of such disaster loan.

SEC. 202. Notwithstanding any other provision of law, the limitation on the total amount of loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) outstanding and committed to a borrower in the disaster areas declared in response to the September 11, 2001, terrorist attacks shall be increased to $10,000,000 and the Administrator shall, in lieu of the fee collected under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee of 0.25 percent of the outstanding balance of deferred participation loans made under section 7(a) to small businesses adversely affected by the September 11, 2001, terrorist attacks and their aftermath, for a period of one year following the date of enactment and to the extent the costs of such reduced fees are offset by appropriations provided by this Act.

SEC. 203. Not later than April 1, 2002, the Secretary of State shall submit to the Committees on Appropriations, in both classified and unclassified form, a report on the United States-People's Republic of China Science and Technology Agreement of 1979, including all protocols. The report is intended to provide a comprehensive evaluation of the benefits of the agreement to the Chinese economy, military, and defense industrial base. The report shall include the following elements:

(1) an accounting of all activities conducted under the Agreement for the past five years, and a projection of activities to be undertaken through 2010;

(2) an estimate of the annual cost to the United States to administer the Agreement;

(3) an assessment of how the Agreement has influenced the policies of the People's Republic of China toward scientific and technological cooperation with the United States;

(4) an analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission;

(5) a determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People's Republic of China, and an assessment of the impact of projected activities through 2010, including transfers of technology, on China's economic and military capabilities; and

(6) recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

The report shall be developed in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Defense Emergency Response Fund'', $6,558,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: Provided, That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): Provided further, That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: Provided further, That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Other Procurement, Air Force'', $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the ''Defense Emergency Response Fund'' shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): Provided, That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: Provided further, That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: Provided further, That the Secretary of Defense may transfer funds from the Fund to the appropriation, ''Support for International Sporting Competitions, Defense'', to be merged with, and available for the same time period and for the same purposes as that appropriation: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: Provided further, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the ''Support for International Sporting Competitions, Defense'', may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term ''active duty'', in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PROTECTIVE CLOTHING AND BREATHING APPARATUS

For a Federal payment to the District of Columbia for protective clothing and breathing apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $7,144,000, of which $922,000 is for the Fire and Emergency

Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, and $453,000 is for the Department of Public Works.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SPECIALIZED HAZARDOUS MATERIALS EQUIPMENT

For a Federal payment to the District of Columbia for specialized hazardous materials equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $1,032,000, for the Fire and Emergency Medical Services Department.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR CHEMICAL AND BIOLOGICAL WEAPONS PREPAREDNESS

For a Federal payment to the District of Columbia for chemical and biological weapons preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $10,355,000, of which $205,000 is for the Fire and Emergency Medical Services Department, $258,000 is for the Metropolitan Police Department, and $9,892,000 is for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR PHARMACEUTICALS FOR RESPONDERS

For a Federal payment to the District of Columbia for pharmaceuticals for responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $2,100,000, for the Department of Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR RESPONSE AND COMMUNICATIONS CAPABILITY

For a Federal payment to the District of Columbia for response and communications capability, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, $14,960,000, of which $7,755,000 is for the Fire and Emergency Medical Services Department, $5,855,000 is for the Metropolitan Police Department, $113,000 is for the Department of Public Works Division of Transportation, $58,000 is for the Office of Property Management, $60,000 is for the Department of Public Works, $750,000 is for the Department of Health, $309,000 is for the Department of Human Services, and $60,000 is for the Department of Parks and Recreation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR SEARCH, RESCUE AND OTHER EMERGENCY EQUIPMENT AND SUPPORT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for search, rescue and other emergency equipment and support, $8,850,000, of which $5,442,000 is for the Metropolitan Police Department, $208,000 is for the Fire and Emergency Medical Services Department, $398,500 is for the Department of Consumer and Regulatory Affairs, $1,178,500 is for the Department of Public Works, $542,000 is for the Department of Human Services, and $1,081,000 is for the Department of Mental Health.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EQUIPMENT, SUPPLIES AND VEHICLES FOR THE OFFICE OF THE CHIEF MEDICAL EXAMINER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for equipment, supplies and vehicles for the Office of the Chief Medical Examiner, $1,780,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR HOSPITAL CONTAINMENT FACILITIES FOR THE DEPARTMENT OF HEALTH

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for hospital containment facilities for the Department of Health, $8,000,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for the Office of the Chief Technology Officer, $43,994,000, for a first response land-line and wireless interoperability project, of which $1,000,000 shall be used to initiate a comprehensive review, by a non-vendor contractor, of the District's current technology-based systems and to develop a plan for integrating the communications systems of the District of Columbia Metropolitan Police and Fire and Emergency Medical Services Departments with the systems of regional and federal law enforcement agencies, including but not limited to the United States Capitol Police, United States Park Police, United States Secret Service, Federal Bureau of Investigation, Federal Protective Service, and the Washington Metropolitan Area Transit Authority Police: Provided, That such plan shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2002.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR EMERGENCY TRAFFIC MANAGEMENT

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for emergency traffic management, $20,700,000, for the Department of Public Works Division of Transportation, of which $14,000,000 is to upgrade traffic light controllers, $4,700,000 is to establish a video traffic monitoring system, and $2,000,000 is to disseminate traffic information.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR TRAINING AND PLANNING

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for training and planning, $11,449,000, of which $4,400,000 is for the Fire and Emergency Medical Services Department, $990,000 is for the Metropolitan Police Department, $1,200,000 is for the Department of Health, $200,000 is for the Office of the Chief Medical Examiner, $1,500,000 is for the Emergency Management Agency, $500,000 is for the Office of Property Management, $500,000 is for the Department of Mental Health, $469,000 is for the Department of Consumer and Regulatory Affairs, $240,000 is for the Department of Public Works, $600,000 is for the Department of Human Services, $100,000 is for the Department of Parks and Recreation, $750,000 is for the Division of Transportation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA FOR INCREASED SECURITY

For a Federal payment to the District of Columbia, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, for increased facility security, $25,536,000, of which $3,900,000 is for the Emergency Management Agency, $14,575,000 for the public schools, and $7,061,000 for the Office of Property Management.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority to meet region-wide security requirements, a contribution of $39,100,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $5,000,000 shall be used for protective clothing and breathing apparatus, $17,200,000 shall be for completion of the fiber optic network project and an automatic vehicle locator system, and $16,900,000 shall be for increased employee and facility security.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments to enhance regional emergency preparedness, coordination and response, $5,000,000, to be obligated from amounts made available in Public Law 107–38 and to remain available until September 30, 2003, of which $1,500,000 shall be used to contribute to the development of a comprehensive regional emergency preparedness, coordination and response plan, $500,000 shall be used to develop a critical infrastructure threat assessment model, $500,000 shall be used to develop and implement a regional communications plan, and $2,500,000 shall be used to develop protocols and procedures for training and outreach exercises.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 401. Notwithstanding any other provision of law, the Chief Financial Officer of the District of Columbia may transfer up to 5 percent of the funds appropriated to the District of Columbia in this chapter between these accounts: Provided, That no such transfer shall take place unless the Chief Financial Officer of the District of Columbia notifies in writing the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of such transfer.

SEC. 402. The Chief Financial Officer of the District of Columbia and the Chief Financial Officer of the Washington Metropolitan Area Transit Authority shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this chapter beginning no later than March 15, 2002.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation and Maintenance, General'', $139,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Water and Related Resources'', $30,259,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $106,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for ''Other Defense Activities'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Defense Environmental Restoration and Waste Management'', $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation of the National Park System'', $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''United States Park Police'', $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Maintenance'', $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Training and employment services'', $32,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such amount shall be provided to the Consortium for Worker Education, established by the New York City Central Labor Council and the New York City Partnership, for an Emergency Employment Clearinghouse.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''State Unemployment Insurance and Employment Service Operations'', $4,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

WORKERS COMPENSATION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Workers Compensation Programs'', $175,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That, of such amount, $125,000,000 shall be for payment to the New York State Workers Compensation Review Board, for the processing of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the terrorist attacks: Provided further, That, of such amount, $25,000,000 shall be for payment to the New York State Uninsured Employers Fund, for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to the terrorist attacks.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $5,880,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''Disease control, research, and training'' for baseline safety screening for the emergency services personnel and rescue and recovery personnel, $12,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for ''National Institute of Environmental Health Sciences'' for carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $10,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, to provide grants to public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to reimburse for health care related expenses or lost revenues directly attributable to the public health emergency resulting from the September 11, 2001, terrorist acts, for ''Public Health and Social Services Emergency Fund'', $140,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That none of the costs have been reimbursed or are eligible for reimbursement from other sources.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''School Improvement Programs'', for the Project School Emergency Response to Violence program, $10,000,000, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Limitation on Administrative Expenses'', $7,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 8

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That $34,500,000 shall be transferred to the ''SENATE'', ''Sergeant at Arms and Doorkeeper of the Senate'' and shall be obligated with the prior approval of the Senate Committee on Appropriations: Provided further, That $40,712,000 shall be transferred to ''HOUSE OF REPRESENTATIVES'', ''Salaries and Expenses'' and shall be obligated with the prior approval of the House Committee on Appropriations: Provided further, That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: Provided further, That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under

Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 801. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking ''The Capitol Police'' and inserting ''(a) The Capitol Police''; and

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

''(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.''.

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 802. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking ''but not to exceed'' and all that follows and inserting the following: ''but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.''.

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 804. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 805. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 806. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 9

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Defense-wide'', $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That of such amount, $35,000,000 shall be available for transfer to ''Military Construction, Army''.

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Army'', $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Navy'', $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Air Force'', $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 901. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term ''appropriate

committees of Congress'' has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 902. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', for the Office of Intelligence and Security, $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $57,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $273,350,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations'', $300,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Facilities and Equipment'', $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research, Engineering, and Development'', $12,000,000, to be derived from the Airport and Airway Trust Fund, to be obligated from amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Miscellaneous Appropriations'', including the operation and construction of ferrys and ferry facilities, $110,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Emergency Relief Program'', as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Safety and Operations'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $100,000,000, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Formula Grants'', $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CAPITAL INVESTMENT GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Capital Investment Grants'', $100,000,000, to be obligated from amounts made available in Public Law 107–38: Provided, That in administering funds made available under this paragraph, the Federal Transit Administrator shall direct funds to those transit agencies most severely impacted by the terrorist attacks of September 11, 2001, excluding any transit agency receiving a Federal payment elsewhere in this Act: Provided further, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Special Programs'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for ''Salaries and Expenses'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation, Maintenance and Procurement, Air and Marine Interdiction Programs'', $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Processing, Assistance and Management'', $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Tax Law Enforcement'', $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Information Systems'', $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $29,193,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Federal Buildings Fund'', $126,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Repairs and Restoration'', $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction, Major Projects'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Community development fund'', $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: Provided, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: Provided further, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: Provided further, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: Provided further, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): Provided further, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of Inspector General'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Science and Technology'', $41,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for ''State and Tribal Assistance Grants'', $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for ''Disaster Relief'', $5,822,722,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $30,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Human Space Flight'', $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Science, Aeronautics and Technology'', $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Related Activities'', $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 13

GENERAL PROVISIONS, THIS DIVISION

SEC. 1301. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1302. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the ''Emergency Supplemental Act, 2002''.

DIVISION C—ADDITIONAL SUPPLEMENTAL APPROPRIATIONS

TITLE I—HOMELAND DEFENSE

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for ''Office of the Secretary'', $76,000,000.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $60,000,000.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $150,000,000, to remain available until September 30, 2003.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION

For an additional amount for ''Research and Education'', $50,000,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $90,000,000, of which $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $14,081,000, to remain available until September 30, 2003.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for ''Food Safety and Inspection Service'', $15,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $120,000,000.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $75,000,000, to remain available until September 30, 2003, for implementation of such enhancements to the Federal Bureau of Investigation as are deemed necessary by the study required under chapter 2 of division B of this Act: Provided, That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $15,000,000, to remain available until September 30, 2003.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States, for ''Salaries and Expenses, United States Marshals Service'', $5,875,000, to remain available until September 30, 2003.

In addition, for an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for courthouse security equipment, $9,125,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $35,000,000, to remain available until Stepember 30, 2003.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $200,000,000, to remain available until September 30, 2003.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $35,100,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $300,000,000, to remain available until September 30, 2003.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until September 30, 2003.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Justice Assistance'', $550,000,000, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, $35,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, to remain available until September 30, 2003.

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $30,000,000, to remain available until September 30, 2003.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Training'', $11,000,000, for a port security program, to remain available until September 30, 2003.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $12,000,000, to remain available until September 30, 2003: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until September 30, 2003.

CHAPTER 3

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $179,000,000, to remain available until September 30, 2003.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and verification research and development, for ''Defense Nuclear Nonproliferation'', $286,000,000, to remain available until September 30, 2003.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for ''Salaries and Expenses'', $36,000,000, to remain available until September 30, 2003: Provided, That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214.

CHAPTER 4

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Public Health and Social Services Emergency Fund'', $3,325,000,000, to remain available until September 30, 2003. Of this amount, $1,150,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $165,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $185,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $10,000,000 shall be for the establishment and operation of a national system to track biological pathogens; $95,000,000 shall be for the Office of the Secretary and improving disaster response teams; $125,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $96,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of biosafety laboratories and related infrastructure costs; $4,000,000 shall be for training and education regarding effective workplace responses to bioterrorism; $593,000,000 shall be for the National Pharmaceutical Stockpile; $829,000,000 shall be for the purchase, deployment and related costs of the smallpox vaccine, and $73,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $12,000,000, to remain available until September 30, 2003.

FEDERAL AVIATION ADMINISTRATION

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research, Engineering, and Development'', $38,000,000, to be derived from the Airport and Airway Trust Fund.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for ''Grants-in-aid for airports'', to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003.

CHAPTER 6

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $270,972,000, to remain available until September 30, 2003; of this amount, not less than $120,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders, of which $10,000,000 shall be available for hiring inspectors along the Southwest border; not less than $15,000,000 shall be available for seaport security; and not less than $135,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology, equipment and infrastructure improvements to combat terrorism at the land and sea border ports of entry.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,847,000, to remain available until September 30, 2003.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional payment to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $875,000,000, to remain available until September 30, 2003.

CHAPTER 7

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount to respond to the September 11, 2001, terrorist attacks on the

United States and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $6,000,000, to remain available until September 30, 2003.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $23,000,000, to remain available until September 30, 2003.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States and to support activities related to countering terrorism, for ''Emergency Management Planning and Assistance'', $300,000,000, to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): Provided, That up to 5 percent of this amount shall be transferred to ''Salaries and expenses'' for program administration.

GENERAL PROVISION, THIS TITLE

SEC. 101. EMERGENCY DESIGNATION. (a) All amounts appropriated in this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) None of the funds in this title shall be available for obligation unless all of the funds in this title are designated as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, in an official budget request transmitted by the President to the Congress.

TITLE II—ASSISTANCE TO NEW YORK, VIRGINIA, AND PENNSYLVANIA

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for ''Disaster Relief'', $7,500,000,000, to remain available until expended for disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia and Pennsylvania on September 11, 2001: Provided, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Deficit Control Act of 1985, as amended: Provided further, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISION, THIS DIVISION

SEC. 102. Notwithstanding section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amount of discretionary budget authority for any account for fiscal year 2003 and subsequent years included in any baseline budget projections made by the Office of Management and Budget or the Congressional Budget Office pursuant to that section shall not reflect any appropriation for fiscal year 2002 provided in this division.

DIVISION D—SPENDING LIMITS AND BUDGETARY ALLOCATIONS FOR FISCAL YEAR 2002

SEC. 101. (a) DISCRETIONARY SPENDING LIMITS.—Section 251(c)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (A) and inserting the following:

''(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,447,000,000 in outlays;''.

(b) REVISED AGGREGATES AND ALLOCATIONS.—Upon the enactment of this section, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each—

(1) revise the aggregate levels of new budget authority and outlays for fiscal year 2002 set in sections 101(2) and 101(3) of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress), to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a);

(2) revise allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations of their respective House as initially set forth in the joint explanatory statement of managers accompanying the conference report on that concurrent resolution, to the extent necessary to reflect the revised limits on discretionary budget authority and outlays for fiscal year 2002 provided in subsection (a); and

(3) publish those revised aggregates and allocations in the Congressional Record.

(c) REPEAL OF SECTION 203 OF BUDGET RESOLUTION FOR FISCAL YEAR 2002.—Section 203 of the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83, 107th Congress) is repealed.

(d) ADJUSTMENTS.—If, for fiscal year 2002, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the Director shall make an adjustment equal to the amount of the excess, but not to exceed an amount equal to 0.2 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal year 2002.

SEC. 102. PAY-AS-YOU-GO ADJUSTMENT.—In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.

DIVISION E—TECHNICAL CORRECTIONS

SEC. 101. Title VI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107–76) is amended under the heading ''Food and Drug Administration, Salaries and Expenses'' by striking ''$13,207,000'' and inserting ''$13,357,000''.

SEC. 102. Title IV of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the third proviso of the first undesignated paragraph under the heading ''Diplomatic and Consular Programs'' by striking ''this heading'' and inserting ''the appropriations accounts within the Administration of Foreign Affairs''.

SEC. 103. Title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended in the proviso under the heading ''Commission on Ocean Policy'' by striking ''appointment'' and inserting ''the first meeting of the Commission''.

SEC. 104. Section 626(c) of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002 (Public Law 107–77) is amended by striking ''1:00CV03110(ESG)'' and inserting ''1:00CV03110(EGS)''.

SEC. 105. JICARILLA, NEW MEXICO, MUNICIPAL WATER SYSTEM. Public Law 107–66 is amended—

(1) under the heading of ''Title I, Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General''—

(A) by striking ''Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico:''; and

(B) insert at the end before the period the following: '': Provided further, That using funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to transfer $2,500,000 to the Secretary of the Interior for the Bureau of Reclamation to proceed with the Jicarilla Municipal Water System in the town of Dulce, New Mexico''; and

(2) under the heading of ''Title II, Department of the Interior, Bureau of Reclamation, Water and Related Resources, (Including the Transfer of Funds)''—

(A) insert at the end before the period the following: '': Provided further, That using $2,500,000 of the funds provided herein, the Secretary of the Interior is directed to proceed with a final design and initiate construction for the repair and replacement of the Jicarilla Municipal Water System in the town of Dulce, New Mexico''.

SEC. 106. (a) Public Law 107–68 is amended by adding at the end the following:

''This Act may be cited as the 'Legislative Branch Appropriations Act, 2002'.''.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of Public Law 107–68.

SEC. 107. Section 102 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended—

(1) in subsection (a), by striking paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively;

(2) in subsection (g)(1)—

(A) in subparagraph (A), by striking ''subsection (i)(1)(A)'' and inserting ''subsection (h)(1)(A)''; and

(B) in subparagraph (B), by striking ''subsection (i)(1)(B)'' and inserting ''subsection (h)(1)(B)''.

SEC. 108. (a) Section 209 of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68) is amended in the matter amending Public Law 106–173 by striking the quotation marks and period at the end of the new subsection (g) and inserting the following: ''Any reimbursement under this subsection shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

''(h) EMPLOYMENT BENEFITS.—

''(1) IN GENERAL.—The Commission shall fix employment benefits for the Director and for additional personnel appointed under section 6(a), in accordance with paragraphs (2) and (3).

''(2) EMPLOYMENT BENEFITS FOR THE DIRECTOR.—

''(A) IN GENERAL.—The Commission shall determine whether or not to treat the Director as a Federal employee for purposes of employment benefits. If the Commission determines that the Director is to be treated as a Federal employee, then he or she is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title. If the Commission determines that the Director is not to be treated as a Federal employee for purposes of employment benefits, then the Commission or its administrative support service provider shall establish appropriate alternative employment benefits for the Director. The Commission's determination shall be irrevocable with respect to each individual appointed as Director, and the Commission shall notify the Office of Personnel Management and the Department of Labor of its determination. Notwithstanding the Commission's determination, the Director's service is deemed to be Federal service for purposes of section 8501 of title 5, United States Code.

''(B) DETAILEE SERVING AS DIRECTOR.—Subparagraph (A) shall not apply to a detailee who is serving as Director.

''(3) EMPLOYMENT BENEFITS FOR ADDITIONAL PERSONNEL.—A person appointed to the Commission staff under subsection (b)(2) is deemed to be an employee as that term is defined by section 2105 of title 5, United States Code, for purposes of chapters 63, 83, 84, 87, 89, and 90 of that title, and is deemed to be an employee for purposes of chapter 81 of that title.''.

(b) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002 (Public Law 107–68).

SEC. 109. (a) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, $29,542,304 shall be set aside for the project as authorized under title IV of the National Highway System Designation Act of 1995, as amended: Provided, That, if funds authorized under these provisions have been distributed then the amount so specified shall be recalled proportionally from those funds distributed to the States under section 110(b)(4)(A) and (B) of title 23, United States Code.

(b) Notwithstanding any other provision of law, for fiscal year 2002, funds available for environmental streamlining activities under section 104(a)(1)(A) of title 23, United States Code, may include making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association nonprofit or for-profit corporation, or institution of higher education.

(c) Notwithstanding any other provision of law, of the funds authorized under section 110 of title 23, United States Code, for fiscal year 2002, and made available for the National motor carrier safety program, $5,896,000 shall be for State commercial driver's license program improvements.

SEC. 110. Notwithstanding any other provision of law, of the amounts appropriated for in fiscal year 2002 for the Research and Special Programs Administration, $3,170,000 of funds provided for research and special programs shall remain available until September 30, 2004; and $22,786,000 of funds provided for the pipeline safety program derived from the pipeline safety fund shall remain available until September 30, 2004.

SEC. 111. Item 1497 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 312), relating to Alaska, is amended by inserting ''and construct capital improvements to intermodal marine freight and passenger facilities and access thereto'' before ''in Anchorage''.

SEC. 112. Of the funds made available in H.R. 2299, the Fiscal Year 2002 Department of Transportation and Related Agencies Appropriations Act, of funds made available for the Transportation and Community and System Preservation Program, $300,000 shall be for the US–61 Woodville widening project in Mississippi and, of funds made available for the Interstate Maintenance program, $5,000,000 shall be for the City of Renton/Port Quendall, WA project.

SEC. 113. Section 652(c)(1) of Public Law 107–67 is amended by striking ''Section 414(c)'' and inserting ''Section 416(c)''.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

SEC. 114. Of the amounts made available under both this heading and the heading ''Salaries and Expenses'' in title II of Public Law 107–73, not to exceed $20,000,000 shall be for the recordation and liquidation of obligations and deficiencies incurred in prior years in connection with the provision of technical assistance authorized under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (''section 514''), and for new obligations for such technical assistance: Provided, That of the total amount provided under this heading, not less than $2,000,000 shall be made available from salaries and expenses allocated to the Office of General Counsel and the Office of Multifamily Housing Assistance Restructuring in the Department of Housing and Urban Development: Provided further, That of the total amount provided under this heading, no more than $10,000,000 shall be made available for new obligations for technical assistance under section 514: Provided further, That from amounts made available under this heading, the Inspector General of the Department of Housing and Urban Development (''HUD Inspector General'') shall audit each provision of technical assistance obligated under the requirements of section 514 over the last 4 years: Provided further, That, to the extent the HUD Inspector General determines that the use of any funding for technical assistance does not meet the requirements of section 514, the Secretary of Housing and Urban Development (''Secretary'') shall recapture any such funds: Provided further, That no funds appropriated under title II of Public Law 107–73 and subsequent appropriations acts for the Department of Housing and Urban Development shall be made available for four years to any entity (or any subsequent entity comprised of significantly the same officers) that has been identified as having violated the requirements of section 514 by the HUD Inspector General: Provided further, That, notwithstanding any other provision of law, no funding for technical assistance under section 514 shall be available for carryover from any previous year: Provided further, That the Secretary shall implement the provisions under this heading in a manner that does not accelerate outlays.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, on Tuesday of this week the Appropriations Committee met to approve the Department of Defense appropriations bill for fiscal year 2002, by a vote of 29 to zero. I am pleased to present the recommendations to the Senate today, as division A of this bill, H.R. 3338.

I will focus my remarks on division A, the Defense portion of the bill. Later today, Chairman BYRD will describe the provisions of divisions B through E. I want to point out that I support the allocation of $7.4 billion for Defense contained in division B. Prompt action on this measure will ensure that our efforts to fight terrorism are fully supported.

The House passed its version of this bill just last week, so you can see we have acted as expeditiously as possible to bring it to the Senate. I want to note to all my colleagues that this would not have been possible without the tremendous cooperation that I have received from Senator STEVENS and his able staff.

The Defense appropriations bill as recommended by the committee provides a total of $317,623,483,000 in budget authority for mandatory and discretionary programs for the Department of Defense. This amount is $1,923,633,000 below the President's request.

The recommended funding is below the President's request by nearly $2 billion because the Senate has already acted to reallocated $500 million for military construction and $1.2 billion for nuclear energy programs under the jurisdiction of the Energy and Water Subcommittee.

The total discretionary funding recommended in division A of this bill is $317,208,000,000. This is the same amount as the subcommittee's 302B allocation, and the House level.

As such, my colleagues should be advised that any amendment that would seek to add funding to the recommendation would need to be accompanied by an acceptable offset in budget authority.

This measure is fully consistent with the objectives of this administration and the Defense authorization bill which passed the Senate in September and is now in conference. Our staffs have worked in close coordination with the Armed Services Committee to minimize differences between the bills.

In addition, we believe we have accommodated those issues identified by the Senate which would enhance our Nation's Defense while allowing us to stay within the limits of the budget resolution.

Our first priority in this bill is to provide for the quality of life of our men and women in uniform.

In that vein, we have fully funded a 5-percent pay raise for every military member and, as authorized, we recommend additional funding for targeted pay raises for those grades and particular skills which are hard to fill.

We believe these increases will significantly aid our ability to recruit, and perhaps more importantly, retain much needed military personnel.

We have also provided $18.4 billion for health care costs. This is $6.3 billion more than appropriated in FY 2001 and nearly $500 million more than requested by the President.

This funding will ensure that TRICARE costs are fully covered, that our military hospitals receive increased funding to better provide for their patients and, by providing funding for ''TRICARE for life'', we fulfill a commitment made to our retirees over 65. This will ensure that those Americans who were willing to dedicate their lives to the military will have quality health care in their older years.

This is most importantly an issue of fairness; it fulfills the guarantee DOD made to the military when they were on active duty.

We also believe it will signal to those willing to serve today that we will keep our promises. In no small part we see this as another recruiting and retention program.

In title II, the bill provides $106.5 billion for readiness and related programs. This is $9.6 billion more than appropriated for fiscal year 2001. The bill reallocates funding from the Secretary of Defense to the military services for the costs of overseas deployments in the Balkans in the same manner as the Pentagon does for the Middle East deployments.

Through this adjustment and because of other fact of life changes in the Balkans, the committee has identified $600

million in savings to reapply to other critical readiness and investment priorities.

For our investment in weapons and other equipment, the recommendation includes $60.9 billion for procurement, nearly $500 million more than requested by the President. The funding here will continue our efforts to recapitalize our forces, supporting the Army's transformation goals and purchasing much needed aircraft, missiles, and space platforms for the Air Force.

For the Navy, the bill provides full funding for those programs that are on tract and ready to move forward. In some cases, delays in contracting have allowed the subcommittee to recommend reallocating funds for other critical requirements.

Included in that, the committee has recommended $560 million for procurement to support our National Guard and Reserve forces.

In funding for future investment for research and development, the measure recommends $46 billion, a 10-percent increase over the amounts appropriated for fiscal year 2001.

The recommendation mirrors the Senate-passed authorization bill for ballistic missile defense. A total of $7 billion is provided under missile defense programs and an additional $1.3 billion is provided in a separate appropriation for the President to allocate either for missile defense or for counterterrorism.

This is a balanced bill that supports the priorities of the administration and the Senate. In order to cut spending by nearly $2 billion, some difficult decisions were required. The bill reduces funding for several programs that have been delayed or are being reconsidered because of the Secretary's Strategic Review, the Nuclear Posture Review, and the Quadrennial Defense Review.

The bill also makes adjustments that are in line with the reforms championed by the administration.

No. 1, a concerted effort was made at reducing reporting requirements in the bill.

No. 2, the bill also reduces funding for consultants and other related support personnel as authorized by the Senate.

No. 3, as requested, the bill provides $100 million for DOD to make additional progress in modernizing its financial management systems.

Finally, the bill places a cap on legislative liaison personnel which the Secretary of Defense has indicated are excessive.

I would like to take a few minutes to address a couple of items that some press reports have mischaracterized about our recommendations.

First, the committee has reduced funding for the Cooperative Threat Reduction Program by $46,000,000. Let me assure all of my colleagues that I strongly support the intent of this program.

The $356 million that we include for the program will assist the former Soviet Union countries to dismantle and safeguard their nuclear weapons. However, the Defense Department has had a history of being unable to use all of the funding that has been provided to it in a timely fashion.

As a result, at this time, the Pentagon has more than $700 million that it hasn't used yet. That is nearly 2 years worth of funds. In addition, under current law, the authorizers have limited the use of funding for certain activities. Even if this language is changed in the pending Defense conference, the Pentagon has not yet presented a plan for how they will use these funds.

The committee has taken its action without prejudice. We are required to reduce funding in this bill by nearly $2 billion. We simply must make this type of reduction where we know they can't efficiently obligate the funding no matter how much we support the overall objectives of the program.

Second, the bill provides discretionary authority to the Defense Department to lease tankers to replace the aging KC–135 fleet. This is a program that is strongly endorsed by the Air Force as the most cost effective way to replace our tankers.

Despite what has been reported, the language in the bill requires that the lease can only be entered into if the Air Force can show that it will be 10 percent less expensive to lease the aircraft than to purchase them. In addition, it stipulates that the aircraft must be returned to the manufacturer at the end of the lease period.

No business sector has suffered more from the events of September 11 than has our commercial aircraft manufacturers. The tragic events of that day have drastically reduced orders for commercial aircraft. We have been informed that Boeing, for example, will have to lay off approximately 30,000 people as a direct consequence of the terrorist attack.

We have provided funding to support the airlines as a result of that tragedy. We are including funds elsewhere in this bill to help in the recovery in New York and the Pentagon. The leasing authority which we have included in division A allows us to help assist commercial airline manufacturers while also solving a long-term problem for the Air Force.

I strongly endorse this initiative which was crafted by my good friend, Senator STEVENS, with the support of several other members, including Senators CANTWELL, MURRAY, and DURBIN. I believe it deserves the unanimous support of the Senate.

Today is December 6. Nearly one quarter of the fiscal year has passed.

The Defense Department is operating under a continuing resolution which significantly limits its ability to efficiently manage its funding—most particularly, procurement programs.

I don't need to remind any of my colleagues that we have men and women serving half way around the world defending us.

Less than 1 percent of Americans serve in today's military. These few are willing to sacrifice themselves for us. They are willing to stand in harm's way in our behalf. They deserve our support.

Nearly 3 months ago, our Nation was hit by a surprise attack delivered from out of blue. Forty years ago tomorrow we suffered a similar attack.

In 1941, our Nation rose up together and we worked diligently to defeat this threat. I have been gratified to see our Nation come together in the past few months in a similar fashion.

This is the bill, that allows us to act. This is the measure that we need to show our military forces that we support them.

I know there are disagreements among some of us with specific funding levels in the other divisions of this bill. But, we should not let us get bogged down in a partisan squabble over how we pay for the war on terrorism.

We have the Defense bill that is urgently needed to fight and win this war and to demonstrate to the world our resolve.

For the good of the Nation, I urge all my colleagues to look to our objective and to support this measure. Let us take the bill to conference where we can work out an agreement that can be endorsed by the President.

I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Madam President, I welcome the opportunity to join Senator INOUYE in presenting the fiscal year 2002 Defense Appropriations Act.

The chairman has just effectively described the bill before the Senate, and I will add only a few comments that I want to make to endorse the presentation that he has made.

This bill before the Senate is a good bill. Section A of the bill Senator INOUYE and I have worked on for some time. Later today it is my intention to offer an amendment in the nature of a substitute. It is amendment No. 2743, substitute for divisions B and C that concern the allocation of funds from the previous emergency supplemental appropriations bill that relate to the September 11 attacks on our Nation.

For the defense portion, there I am referring specifically to section A of the bill before the Senate. I am especially pleased we succeeded in funding the 5-percent pay raise and the $9.5 billion increase in readiness funds in the O&M section of this bill.

Of special importance to me are three initiatives in the bill that will dramatically enhance our national security. First, the bill includes $143 million to continue the multiyear procurement contract for the C–17 airlifter. Our current deployment relies heavily on the C–17 fleet, and this initiative will continue the procurement of that aircraft—now the backbone of our strategy for deployment. As I said, we continue to rely on the C–17 fleet for

our deployment policies of the Department of Defense, and we need as many of those as we can get.

Second, this bill fully accommodates the President's request of $8.3 billion for missile defense programs, and it carries out the conditions set forth in the Defense authorization bill for the allocation of that money.

The successful test earlier this week of the ground-based midcourse interceptor reflects the great progress made in this missile defense program by LTG Ron Kadish and the people in his command. I congratulate them. We are now talking about the ground-based midcourse interceptor program which is a portion of the missile defense program. That is what is in the bill before the Senate.

Third, the bill includes a new provision that authorizes the Secretary of the Air Force to lease 100 new air refueling tankers. If executed by the Department—that is, if these leases are followed through by the Department—these leased aircraft would replace the 136 KC–135E aircraft which are currently in use as air refueling tankers. They average in excess of 41 years of age. I notice the chairman said 42. I am sure he has more updated information than I.

This initiative, as the chairman said, endorsed by the Secretary of the Air Force, has been cleared by CBO as having no budgetary impact in fiscal year 2002.

Earlier this week I answered a question of the press and other Members of the Senate about this provision and told them this bill did not, at that time, specify the aircraft to be procured. Because of the clearance procedure of the CBO, we have now put in the bill a designation that these aircraft to be leased will be the Boeing 767s because there is adequate information upon which we can base the conclusion and really advance the argument that there will be a commercial market for these aircraft at the end of the lease involved.

What I really want to tell the Senate is that this bill reflects countless hours of collaboration by myself and Chairman INOUYE and the members of the committee and our staff. Both my chief of staff, Steve Cortese, and the chief of staff for Senator INOUYE, Charlie Houy, have really put in weekends and hours that cannot even be counted to be sure that this bill before the Senate is what we intend it to be.

Our allocation in this bill was $2 billion less than the President's amended request. The committee allocated additional funds for military construction and defense nuclear weapons programs. Those really are defense, in my judgment. I have supported and advocated the allocations to those programs. But I recognize the pressure everyone is working under to make certain we have an adequate allowance for defense.

I believe the priorities of Members of the Senate, as requested by them to both Senator INOUYE and myself, are reflected in this bill in a balanced and fair fashion. I state to the Senate that if I were still chairman of the Subcommittee on Defense, there really are very few changes I would recommend to the Senate in the bill. I recommend none now because the differences are so minor that they really should not affect the consideration of the bill.

There is, however, a long day ahead of us. It is my hope we can strike a compromise. For that purpose, I will offer the substitute and explain it further after Senator BYRD has presented his statement concerning the Senate amendments as reflected by the bill that has been reported from the full Committee on Appropriations and is before the Senate now.

I do appreciate every consideration that has been extended to me and my staff by Chairman INOUYE and his staff director, Charlie Houy, and the chairman of the full committee and his staff.

I wish I could say I look forward to this debate. At present, I think we are heading toward being in the position of being between a rock and a hard place. I will try to search out a way to move one or the other or both.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, before I suggest the absence of a quorum, I would like to have the RECORD show how pleased the subcommittee is with the initiative offered by Senator STEVENS, the Presiding Officer, and Senator CANTWELL, on the KC–135 leasing program. It took much time and, I would say, much creativity, but I am happy that these great Senators were able to resolve this matter. We find now that a measure that should have been contentious is no longer contentious. I once again thank Senator STEVENS, Senator MURRAY, and Senator CANTWELL.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring of H.R. 3338, the Department of Defense Appropriations Act for Fiscal Year 2002.

H.R. 3338 provides $317.206 billion in nonemergency discretionary budget authority for defense activities and $13 million in nonemergency budget authority for general purpose activities. Those amounts will result in new outlays in 2002 of $213.063 billion. When outlays from prior-year budget authority are taken into account, nonemergency discretionary outlays for the Senate bill total $309.412 billion in 2002.

In addition, the bill includes $35 billion in emergency-designated budget authority. Of that total, $20 billion represents amounts previously authorized by and designated as emergency spending under Public Law 107–38, the Emergency Supplemental Appropriations Act for Recovery from and Response to Attacks on the United States, and $15 billion is for homeland defense. That budget authority will result in new outlays in 2002 of $12.123 billion. In accordance with standard budget practice, the budget committee will adjust the appropriations committee's allocation for emergency spending at the end of conference. Because the funds for homeland security include amounts for nondefense activities, the emergency designation violates section 205 of the budget resolution for fiscal year 2001 (H. Rept. 106–577).

The Senate bill also violates section 302(f) of the Congressional Budget Act of 1974 because it exceeds the subcommittee's Section 302(b) allocation for both budget authority and outlays. Similarly, because the committee's allocation is tied to the current law cap on discretionary spending, H.R. 3338 also violates section 312(b) of the Congressional Budget Act. The bill includes language that raises the cap on discretionary category spending to $681.441 billion in budget authority and $670.447 billion in outlays. However, because that language is not yet law, the budget committee cannot increase the appropriations committee's allocation at this time, putting it in violation of the two points of order.

In addition, by including language that increases the cap on discretionary spending and adjusts the balances on the pay-as-you-go scorecard for 2001 and 2002 to zero, H.R. 3338 also violates section 306 of the Congressional Budget Act. Finally, the bill violates section 311(a)(2)(A) of the Congressional Budget Act by exceeding the spending aggregates assumed in the 2002 budget resolution for fiscal year 2002.

H.R. 3338 violates several budget act points of order; however, it is a good bill that addresses the nation's defense needs, including the defense of our homeland. The President and Congressional leaders from both parties agreed in the wake of the September 11th attack that more money was needed to respond to the terrorists and to protect our homeland. This bill follows that bipartisan agreement and includes language that raises the cap on discretionary spending to the necessary level. I commend Chairman BYRD and subcommittee Chairman INOUYE on their excellent work in bringing this important bill to the Senate floor.

I ask unanimous consent that a table displaying the budget committee scoring of H.R. 3338 be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 3338, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002

[Spending comparisons—Senate-Reported Bill (in millions of dollars)]

	General purpose	Defense	Mandatory	Total
Senate-reported bill:				
Budget Authority	13	317,206	282	317,501
Outlays	13	309,399	282	309,694
Senate 302(b) allocation: [1]				
Budget Authority	.....	181,953	282	182,235
Outlays	.....	181,616	282	181,898
House-passed bill:				
Budget Authority	.....	317,207	282	317,489
Outlays	.....	308,873	282	309,155
President's request:				
Budget Authority	.....	319,130	282	319,412
Outlays	.....	310,942	282	311,224
SENATE-REPORTED BILL COMPARED TO:				
Senate 302(b) allocation: [1]				
Budget Authority	13	135,253	.....	135,266
Outlays	13	127,783	.....	127,796
House-passed bill:				
Budget Authority	13	−1	.....	12
Outlays	13	526	.....	539
President's request:				
Budget Authority	13	−1,924	.....	−1,911
Outlays	13	−1,543	.....	−1,530

[1] For enforcement purposes, the budget committee compares the Senate-reported bill to the Senate 302(b) allocation. The subcommittee's allocation reflects the current law cap on discretionary category spending. The Senate-reported bill includes language increasing that cap to $681.441 billion (consistent with the agreement reached between President Bush and Congressional leaders). Because the increase in the cap is not yet law, the committee cannot revise the committee's 302(a) allocation at this time.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions. In addition to the amounts shown above, the Senate bill also includes $20 billion in budget authority and $8.25 billion in outlays to respond to the September 11th attack and $15 billion in budget authority and $3.873 billion for homeland security. Such amounts are designated as emergency. The budget committee increases the committee's 302(a) allocation for emergencies when a bill is reported out of conference.

Prepared by SBC Majority Staff, 12–6–01.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, friends, Senators, Americans, lend me your ears. It was just 56 days ago on a day like this day, as clear as the noon day Sun and a cloudless sky, that tragedy struck.

Until September 10 we thought of national defense in terms of the soldiers, sailors, airmen and marines that make up our military. We sought to provide them with the best training and equipment that money could buy, and when duty calls, we expect them to leave behind their families and loved ones to go into harm's way to protect our country and our citizens from aggression.

Our concept of national defense has now been radically altered as a result of the September 11 terrorist attacks. It is not just our military personnel in Afghanistan who are on the front lines, but all Americans here at home are on the front lines. This zone of conflict extends to where we live, where we work, and where we play. Judging by the horrendous loss of life in New York, our own cities are the battlefield of the 21st century.

The President has said that ''we are fighting a two-front war . . . our enemy is fighting an army, not only overseas, but at home.'' Our domestic army against terrorism is made up of those who work to enforce our laws, those who work to secure our borders, those who manage the Public Health Service, and those who provide for the security of our Nation's airports and nuclear facilities. Just as we provide for the finest and most capable military, we must provide for the defense of our homeland because, as I say, here, too, is the front line.

On September 14, the Congress passed a $40 billion emergency supplemental appropriations bill in response to the September 11 attacks on the World Trade Center and the Pentagon. There was absolute bipartisanship. There was no aisle between the parties then.

At the time, we thought we could split those funds between our military needs abroad and those needed to rebuild New York City and the Pentagon. However, since September 14, we have seen a biological attack unleashed on the east coast in the form of anthrax. The specter of small pox has reemerged for the first time in almost 30 years.

The distinguished senior Senator from Alaska and I can remember very well those schooldays when we were vaccinated for smallpox at school. I remember the little two-room schoolhouse there in that ancient coal mining camp of Algonquin in Mercer County, southern West Virginia, in the heart of the coal fields. There it was that I received the needle.

We have seen National Guard troops patrolling the Golden Gate Bridge. We have had threats made against our nuclear facilities. We have gained new information that Osama bin Laden loyalists have progressed further than originally thought in producing chemical and nuclear weapons, and those stories, those headlines appeared in the Washington press. The Administration has issued three vague warnings to the American people urging them to be on a heightened state of alert.

We have learned so much more about our potential vulnerabilities here at home since September 14. We now know that these vulnerabilities must be addressed, and that additional security precautions must be taken.

Of the $40 billion emergency appropriations bill passed on September 14, the President has committed $21 billion to our military and intelligence primarily for needs abroad. That leaves $19 billion for the President to fulfill his promise to provide $20 billion to rebuild New York City and the Pentagon and other areas which were the subject of the terrorist attacks. And the other area is homeland defense, of which he, himself, has identified $6 billion in needs. Clearly, within the confines of that $40 billion package, we cannot do it all.

The reality is that budget deficits are on the horizon as far as the human eye and as far as our computers can see, and certainly as far as the end of the President's second term, if he should choose to run, if the electorate should choose to elect him, and if the Good Lord chooses to let him live.

Under the guise of budgetary discipline, the administration has chosen an arbitrary number—independent of whether or not that amount can provide for our homeland defense needs—and the administration has decided to oppose or to postpone until next year any spending above that line regardless of the need or purpose.

Osama bin Laden does not care one whit, not one snap of the finger, about our budget agreements. His loyalists are not concerned about whether we have a supplemental appropriations bill in the spring. They are plotting attacks right now, this very minute. Twenty-four hours a day they plot. They plot when you are sleeping. They plot when I am sleeping. They will not wait until next year, and if we do not make these small investments now to address our potential vulnerabilities, then we risk substantially larger losses in the future—not just financial and human casualties but also the loss of the American people's confidence in their Government, the American people's confidence in their President, the American people's confidence in their Congress.

We cannot shortchange our homeland defense. We cannot postpone these investments. Our citizens have a right to know that the police, the fire and the hospital personnel in their communities have the equipment, training, and medicine to respond to a terrorist attack.

I have, with the help of my staff and with the help of the witnesses who have appeared before the appropriations subcommittees, crafted a package that addresses our most immediate vulnerabilities at home. This package provides the President's full request for our military operations abroad. We do not cut one penny from defense, defense as understood in the usual sense. We do not cut one penny from the President's promise and our commitment to New York City. Not one penny do we cut. And we provide for homeland defense. That is as much defense as is the defense of our military people who are overseas.

Americans have spilled blood in Afghanistan. Americans have spilled blood in Lower Manhattan, and within our own sight out of the windows Americans have spilled blood at the Pentagon. Is there any difference in the spilling of American blood whether it is overseas or at home, when the cause of that spilling of American blood and that blood itself is on the hands of terrorists?

The major elements of my homeland defense package include bioterrorism prevention and response, which includes food safety.

Our current public health system is ill-funded, fragmented, and unprepared to respond adequately to the threats posed by bioterrorism. The anthrax-laced letters sent through the mail afforded us just a glimpse of the terror, the fear, the concern, the apprehension, that could result from a more serious biological attack involving smallpox or Ebola.

We know that rogue nations like Iraq, Iran, and North Korea are developing biological and chemical weapons. We know that bin Laden loyalists have conducted research on chemical and biological weapons at 40 sites in Afghanistan.

The Administration has proposed $1.6 billion for bioterrorism prevention, just barely enough to increase our supply of smallpox vaccine and other necessary pharmaceuticals alone. To fit into the President's budget request, the Health and Human Services Department even cut back on its repeatedly stated goal of purchasing 300 million small pox vaccine doses, choosing to rely instead on diluted versions of older vaccine doses left over from the 1970s.

The Administration's chief public health expert, the director of the Center for Disease Control and Prevention, Dr. Jeffrey Koplan, indicated that the Administration's proposal is ''too little, too late.''

Moreover, Dr. Koplan estimates that it will take at least $1 billion to bring state and local public health agencies up to speed to be able to recognize and respond to an incident of bioterrorism. Yet, the Administration has proposed a paltry $115 million to increase State and local health capacity. Our proposal includes over $1.3 billion for expanding State and local health capacity, twelve times the President's request.

State and local health departments are considered the weakest link in the Nation's defense against bioterrorism, and experts say they must take a range of steps to improve readiness, including increasing their laboratory capacity and hiring more epidemiologists to track disease.

The Secretary of HHS, Tommy Thompson, when he appeared before our appropriations subcommittee to speak about protecting the American people from an outbreak of smallpox, said every State should have at least one epidemiologist. Experts say they must take a range of steps to improve readiness, increasing their laboratory capacity and hiring more epidemiologists to track disease. Who will be the first to respond to a biological attack, the State and local health officials down in Beckley, WV, the local law enforcement officers at Sophia, population 1,182?

These are the people who will be first. The Feds may come within 6 hours, 8 hours, or 10 hours, but those who will respond first are those law enforcement and health officials, fire department people who are there on the spot. They will be the first to die, and they will be the first to act to prevent others from dying.

Fewer than half of these health departments have access to the modern fax machines capable of expeditiously alerting hospitals of a bioterror threat. Our local health care providers are more likely to receive critical health advisories from CNN than they are from other health care officials.

My homeland security package would provide an additional $3.9 billion to not only expand the development of the Federal pharmaceutical stockpile and our supply of the smallpox vaccine, but also to expand state and local health care capacity. In contrast to the administration's funding proposal, this package prioritizes funding to ''first responders'' at the state and local level. The bulk of the funding is directed toward improving our public health departments, beefing up local lab capacity, and expanding the Health Alert Network.

Also, included in my homeland security package is $575 million that would be directed to the Food and Drug Administration, and the Department of Agriculture, to help prevent and respond to the malicious introduction of a highly contagious disease into our food supply. Aside from the obvious health threat, agro-terrorism would severely disrupt the economy and public confidence in the food supply.

We have to be conscious of the possibility that terrorists will act against our crops, against the Nation's livestock and threaten the lives of people through the food they eat.

We need only look to the recent outbreak of mad cow disease in Japan to see the chaos and economic devastation that would follow an agro-terrorist attack. I doubt many Americans would find comfort in the fact that the FDA only has the resources to inspect 0.7 percent of all imported food. Not 1 percent, only 0.7 of 1 percent. The FDA only has the resources to inspect 0.7 percent of all imported food.

When it comes to the health and safety of the American people, we cannot afford to cut corners. We cannot afford to gamble. We cannot afford to tempt fate. We must not deal with bioterrorism on the cheap.

Mr. SARBANES. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. SARBANES. I add the observation, we cannot afford to wait, either. Every one of the items—and I commend the Senator for his extraordinary leadership and initiative in this regard—every one of the items covered by his homeland defense program are matters we should address now, today, this week, this month.

They cry out for a commitment of resources to address airport security, port security, border security, the postal system, the assistance to State and local antiterrorism law enforcement, the firefighters, bioterrorism prevention, and protecting the nuclear powerplants. And in every one of these items, there is not a one of them we can look at and say, let's leave that; we will do that later; there is not a pressing need.

There is a pressing need now for every one of these items. I commend the Senator for moving forward with this initiative. Governor Ridge himself has said he will come in next year and ask for significant resources. But he needs them now. My perception is that Governor Ridge is being undercut in his effort to deal with homeland security by the fact that he is not picking up the additional resources he needs in order to go out into these communities—State and local governments, the health community, the security community—and say, we are in a position now to help move your program, and move it ahead. Much of this requires a response from others. If we don't provide the resources here with which to do it, when is it going to happen? We are going to delay it, 60, 90, 120 days? Who knows how long.

This is an opportunity, as the Senator has seen, to move now to address these pressing concerns. If we want to move the economy back up, a way to do it is to provide to the American people a sense of security and functioning within their own homeland, which the Senator has done, and about which he has spoken quite eloquently.

I register my very strong support for this initiative and thank the Senator for, once again, moving forward to provide very important leadership in this critical matter facing our Nation.

Mr. BYRD. Mr. President, the Scriptures say that a word fitly spoken is like apples of gold and pictures of silver. The words of the distinguished Senator from Maryland are fitly spoken.

The time is now. The danger is here. It is now.

Now, several subcommittees under the Appropriations Committee have had hearings, and I have been able to attend some of those hearings. We have heard eloquent witnesses appear before those subcommittees and testify to the need of appropriations now, aside from the fact that it is at the State and local levels where the need exists now.

I saw in the paper, I believe in the last week, a headline that the State of Virginia was suffering a $1 billion shortfall in State revenue. The State of Virginia is not alone in that respect. Most States in this country are suffering shortfalls in their budgets. They need help. They need money now. We cannot wait, as the distinguished Senator from Maryland has said.

In putting this package together, we have tried to consider those items which are purely for homeland defense.

On the question of the need of States and cities for Federal aid, 39 States—get this, 39 States—today, right now, nearly 4 out of 5 States, are in a recession or near a recession. Since March, the number of States in recession has nearly doubled to 20 States from 11 States with the terrorist attacks of September 11 helping to push some over the brink.

I will refer to this statement of facts again later.

I thank the distinguished Senator from Maryland. He is right on point.

My homeland security package also contains $1 billion for Federal, State, and local law enforcement. The attacks of September 11 dramatically, and tragically demonstrated that our country's law enforcement agencies need greater support to counter the terrorist violence that has reached our shores.

They need this support and, as we have already indicated, the States cannot provide it. The money is not there.

They are already running into deficit, so they are looking to the Federal Government to help.

Of the $1 billion included in this package, $225 million would be used to improve communication and coordination between the FBI and the 43 Federal agencies involved in counterterrorism activities here at home.

Former drug czar Barry McCaffrey testified before the Senate Governmental Affairs Committee in October that the FBI's computers are woefully inadequate—those were his words, the FBI's computers are ''woefully inadequate''—and that the computers in the homes of most Americans are more advanced than those used by FBI agents in the field. Think of that.

He also stated that a current FBI's computer upgrades effort is hampered by budgetary constraints. This $225 million that is included in this red section of the pie chart would jump-start those upgrades and move the Bureau's technology into the 21st century.

I see the distinguished Senator from New York, Mr. SCHUMER, on the floor. He is listening raptly. He has indicated that he wishes to make a point. I yield for that purpose.

Mr. SCHUMER. I thank the Senator, our leader from West Virginia, for the package he has put together. As somebody who chairs a subcommittee that oversees the FBI, I would like to say to the Senator from West Virginia that when the FBI came and testified before us, and the Senator from West Virginia asked them what their No. 1 hinderance was in fighting the war on terrorism, they said it was lack of resources. Their computers —I would just like to ask the Senator if he is familiar with this—in one part of the FBI cannot talk to the computers in the other part of the FBI, let alone talk to the computers of the CIA, the NSA, the INS, the ATF, and all of the other agencies.

I would like, before asking the question, to compliment the Senator. This is desperately needed. We are at war on our homefront as much as we are at war in Afghanistan. I think it was Vice President CHENEY who said we will lose more people on the homefront than on the battlefront. So I cannot see why we would not do this when our own people throughout America are at risk.

But I would like to ask the Senator if he has heard of this almost primitive computer structure at the FBI—that the computers are not able to talk to one another within the agency, let alone to others? And would the package deal with that problem in every way that the FBI might need?

Mr. BYRD. There is $225 million in this package to jump-start the effort to upgrade those computers. They are the instruments of communication between and among the FBI and the other agencies. It is a dire need, and it should be met now, not next spring.

Mr. SCHUMER. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. SCHUMER. If we waited until next spring, could it be that the potential of our FBI to catch the terrorists or prevent the next—God forbid—terrorist incident from occurring in America would be greatly downgraded and it would increase the chances that—again, God forbid—some other incident might occur?

Mr. BYRD. The Senator is correct. Why wait? Why toy with ''wait''? Why gamble? Why not act now?

The Senator knows we have wrapped a ribbon around this homeland defense package which says, in essence: Mr. President, you may use this or you may not use it. So we have an emergency designation. It is an emergency, Mr. President, and you have the key. You have the key. So it is your call, but here are the tools. If you need them, you won't have to wait until next spring.

The thing about waiting until next spring is we are really waiting until next summer or next autumn because the supplemental request doesn't come up on one day and end up being signed by the President on the next day; there have to be hearings and so on.

We have had the hearings now that indicated a dire need for these emergency items. So we are putting this ribbon, this blue ribbon that says emergency, E-M-E-R-G-E-N-C-Y, on it. Why? Of what are we afraid? Why don't we want the President to have this so he can carry out his commitment to protect the American people from the attacks of terrorism? He made that promise.

Mr. SCHUMER. I thank the Senator.

Mr. BYRD. I thank the Senator.

I also included $150 million in this package for cyber security. It is alarming to know that the next terrorist attack could cripple our Nation's economy simply by a few strokes of the keyboard. Cyber-attacks have cost our economy $12 billion this year alone. Just imagine the frightening consequences if a cyber-terrorist were to take control of one of our financial institutions, or to take control of one of our power grids, or to take control of our air traffic control system. That can happen.

Of the $1 billion included for antiterrorism law enforcement, one-half, or $500 million, would be directed to State and local law enforcement agencies. This is where the rubber meets the road in law enforcement.

State and local police departments are stretched thin enough, due to the need for an increased security presence throughout our cities and States. Twelve-hour days and overtime pay for State and local law enforcement personnel have become the norm since September 11. Right here in this city, in the capital city here around this Capitol Building, this building which is the most splendid edifice in the world, this has happened. It is taking place here: 12-hour days, overtime pay for State and local law enforcement personnel. The Office of Homeland Security has asked State police to increase their patrols of State nuclear facilities, without any Federal compensation or timetable for how long state assistance will be needed. Meanwhile, the activation of 57,000 National Guard and Reservists to support the Armed Services during our operations in Afghanistan and our counter-terrorism activities here at home has drained the manpower of many State and local police departments.

According to the National Governors' Association, State police patrols of our nuclear facilities will cost States an extra $58 million this year. It will cost another $46 million to secure our dams and bridges, $28 million to protect gas pipelines and power stations, and $75 million to assist Federal authorities with patrolling our borders.

Who makes up the National Guard? If I am wrong, I would like someone to point it out to me. Do doctors serve in the National Guard? Do policemen? Do law enforcement personnel? Do paramedics at the homefront and at the local level serve in the National Guard? Then why should we take those men and women away from the local level where they are most needed and where they will be the first to answer the call and send them up there to the northern border to patrol the border? What sense does that make? We need to keep them at home.

According to the U.S. Conference of Mayors, Los Angeles has spent more than $11 million so far due to increased security costs and lost revenue related to the September 11 terrorist attacks. The city's police and fire department deficits have doubled.

In Boston, Mayor Thomas Menino must now pay $20,000 in additional security costs every time a tanker enters his port carrying liquefied natural gas, and 42 tankers are on the way. Police overtime expenses alone in Boston so far total about $700,000.

Denver Mayor Wellington Webb is facing a long list of emergency needs, including biohazard-decontamination units, protective suits, bigger stores of antibiotics and drugs, special cameras, an anthrax detector, and a preparedness guide for every household that will cost in total $610,000.

In Baltimore, Mayor Martin O'Malley spent $2 million in overtime for police and fire departments in the first three days following Sept. 11. By year's end the added security costs are expected to hit $14 million.

Security costs in Dallas have passed $2 million and could reach $6 million by the end of the year.

At a time when our State and local governments are cutting budgets due to the recession, our State and local law enforcement need our support, and they need it now.

Ms. STABENOW. Mr. President, will the distinguished Senator yield for a moment?

Mr. BYRD. Mr. President, I am happy to yield to the distinguished Senator.

Ms. STABENOW. Thank you, very much.

As a Senator from Michigan, I wanted to rise to agree totally with what Senator BYRD is saying today about the pressure on our northern borders and our law enforcement officials who are now donating overtime on the borders. In Michigan, we have four different border crossings. We have the busiest bridge in the country through Detroit. We are stretching our local law enforcement to the limit, and we are using our National Guard as well. But we certainly have tremendous pressures on us.

I wanted to congratulate the Senator from West Virginia for what he is proposing.

I also wanted to quote for the RECORD part of an article that was in the Detroit Free Press, entitled ''State's Health Care System Unready for Major Bio-Terror.''

It says:

The call came late the evening of Oct. 25 to the top health officer for two Upper Peninsula counties.

Dr. John Petrawsky was told that a woman who had exhibited only mild cold symptoms the previous day had died. Her relatives said she had received a stranger letter with powder in it the week before.

Was this anthrax?

A pathologist at Marquette General Hospital refused to do an autopsy, fearing his facility couldn't contain lethal bacteria. No one at the state Department of Community Health in Lansing knew where the nearest properly ventilated autopsy room might be, Petrasky said.

Finally, a pathologist tracked down by the U.S. Centers for Disease Control and Prevention advised doing a limited autopsy. The Marquette doctor agreed, and 19 hours later, Petrasky had his answer: It wasn't anthrax. The woman had died of something completely unrelated, and the crisis was averted.

Or was it?

In the weeks since Sept. 11, many Michigan hospitals and public health agencies are realizing how ill-prepared they are for biological or chemical warfare. Many hospitals lack proper decontamination and laboratory facilities. Public health departments are strapped by low staffing levels and inadequate communication between the departments and the state. Doctors are learning they may not know how to spot rarely diagnosed diseases like anthrax.

After years of hospitals and public health departments being pushed to run lean, some say what's left is a system that can be overburdened by a bad flu season.

''We don't have enough beds. We don't have enough nurses.''

This is a very serious situation.

I cannot imagine a greater urgency.

I wanted to thank the Senator for his leadership on this issue.

I cannot imagine why we would not be coming together 100 Members strong in this Senate. We understand more than anyone else, given what has happened in our own complex with anthrax and the difficulties and challenges of finding out how to respond to it. We can only imagine how small communities in northern Michigan are struggling when they believe they may have, in fact, encountered something related to bioterrorism.

I congratulate the Senator from West Virginia. There is a tremendous sense of urgency in my State of Michigan and around the country. People assume we are acting. We are acting together in the defense of our country overseas. It is now time to act in defense of our homeland.

That is what the Senator from West Virginia is proposing, and I am hopeful that our Senate colleagues will join in supporting the plan that he has put forward, and which is so needed for all of our families.

Mr. BYRD. Mr. President, I thank the very distinguished and able Senator from Michigan for her cogent, very persuasive and forceful remarks, and for the observations she has made with respect to the needs of those at the local level who bear a responsibility to detect and to respond in the first instance to acts of terrorism on the part of those who have said to us: We will kill Americans.

As to the FEMA firefighters program, many people are just now beginning to appreciate the critical role played by our Nation's firefighters. We have taken these heroes for granted and, tragically, they have been denied the funding resources necessary to enable them to do their job as safely and effectively as possible. Their job is to protect people—men, women, old people, children. That is the job of these firefighters.

Last year, Congress took action to begin to address this provision by creating a new Federal program to provide direct assistance to fire departments.

Administered by the Federal Emergency Management Agency, the Assistance to Firefighters Grant Program received an initial appropriation of $100 million, which was quickly depleted by tremendous demand. The agency received more than 31,000 applications totaling nearly $3 billion in requested funds—almost 30 times the amount appropriated.

This package includes $300 million in grants to State and local communities to expand and improve firefighting programs through FEMA firefighting grants. Over 50 percent of that funding goes to volunteer fire departments in rural communities.

Some rural communities in this country are using fire wagons, firefighting machines, and fire trucks that are 20, 30, or 40 years old. In the countryside, the volunteer fire department is the first and only entity available to deal with a crisis.

Now, we have heard much about the letters that have come to the Senate leader, Senator DASCHLE, and to the Senator from Vermont, Mr. LEAHY, and to some other Americans. So today the American people are victims of terrorism by mail, delivered to your home, brought to your street address. We will deliver it, packaged, ready to kill.

This is not something that might happen sometime in the future; it is happening now. I do not like for my wife to go to the mailbox. Who knows. There could be an envelope in that mailbox that could have some deadly pathogen enclosed. It could be your wife. It could be your daughter, your father, your husband. This is real.

How do we know? I know. My staff has not been in their offices since October 15. That is how I know. We are located in the southeast corner of the Hart Building. How many letters have I received since October 15 from my constituents, who send me here to vote to protect them and to protect their interests? How many letters have I received? Twelve. We received 12 yesterday, 12 letters. It is real.

And we seek to protect ourselves. We have fumigated the offices. We have taken action to decontaminate the offices so that our people can move back into those offices. Action has been taken to clear the streets nearby while these things have been going on to decontaminate our offices.

How about the people on Main Street in Sophia, are they being protected? Oh, it is easy to say to our people: Go about your business. Everything is OK. Get out there and go to the stores, go to the movies, go to the restaurants, buy, buy, buy. It is easy to say that. It is easy for me to say: Come to West Virginia. We want to build up our tourism in West Virginia. Come to see West Virginia. Come to see Washington. I can say that, can't I?

Why? I have much in the way of protection here, and so does every other Senator. The President pro tempore has security—takes him home with him at night, brings him to the office in the morning, stays in the office daily, stands outside the office, ready to protect the President pro tempore against all comers.

The President goes in Air Force One, the Vice President goes in Air Force Two, other people high in the Government have protection.

Out here we have concrete barriers. You cannot get into this Capitol without being carefully scrutinized and having your pocketbooks opened and your packages carefully inspected. We are protected. We live in this little, tiny bit of the world.

The worm crawled upon the clod, and the worm said: Aha, I see the world.

The squirrel climbed the tallest pine in the southern hills, and he looked about him and he said: Aho, I see the world.

The eagle—the national emblem of our country, the eagle—flew high above the Earth into the blue heavens and said: Ho-ho, I see the world.

So we see the world in our own little corner here. I feel safe—fairly safe—because of all these protections here. But we do not see the world as that miner or that farmer, that office worker, that professional, that lawyer, that minister, the housewives, the schoolteachers out in the rural areas of the country or who are out in the greater urban cities.

We do not see things as they see them. They do not have Secret Service

to protect them where they go. They do not have security personnel to protect them, as I have. They do not have the concrete barriers out there. They do not have the physician just 2 minutes away from my office. They live in a different world.

Why can't we see it through their eyes? Why can't we take off the green eyeshades and see the world as our people see it—the people out there who are subject to these terrorists, who run these risks every day, those who come into Penn Station in New York. Seven hundred fifty trains every day come into that station—500,000 persons: Commuters, tourists, people on their way to work—500,000 every day. Can they see the world through our eyes?

They come in the tunnels, tunnels that were built before World War I, tunnels that are inadequately lighted, inadequately protected, and without adequate means of access—ingress and egress—without adequate escape routes, without adequate ventilation. Those are the tunnels.

Those people face these potential terrorist acts every day, going to work, coming from work, wanting to do no more than just earn an honest living, earn their daily bread by the sweat of their brow. They need protection. Who are we to deny it to them? Fie on us. We know the need is there. And we know it is our responsibility to provide it. And we are doing it. We are doing it in the package here that has a little blue ribbon around it that says: Mr. President, you can spend this. It is here. You do not have to spend it, but here it is—right now, tonight —if you need it to protect the people.

That first phrase in the preamble to the Constitution of the United States says: ''We the People of the United States, in Order to form a more perfect Union. . . .'' That is not talking about an aisle that separates one party from the other. That is not talking about in order to form more perfect political parties —''a more perfect Union.'' And now is the time when we should do our part to form that ''more perfect Union'' right here in this Senate and join together and vote together to support this eminently sensible package.

The U.S. Postal Service is a $70 billion organization, and it is part of a $900 billion industry. It has seen mail volume drop by 7 percent since September 11 and lost between $200 million and $300 million in revenue. The Postal Service reported a $1.7 billion loss in fiscal year 2001—on top of $200 million in losses last year.

The Postal Service has asked for $3 billion to cover the cost of equipment to safeguard the mail. In response, the administration has provided $175 million so that the Postal Service can buy gloves and masks for now and has promised more money later. It is almost laughable, if it were not so serious.

That is not enough money for the Postal Service to deal with this crisis that is happening right now. Here it is. The words read ''postal security, $875 million.''

This package provides an additional $875 million to begin to make the security changes necessary to keep the mail moving and to allow the Postal Service to respond immediately to this and future terrorist attacks.

How little did I imagine, when I came to this great institution, the legislative branch, 50 years ago next year, how little did I realize that there would come a day when our mail would have to be screened, when I, as an elected representative of the people of West Virginia, would see my staff forced to evacuate the U.S. Senate office building in which they were located? How little did I foresee that the time would come when, over this long period of time since September 11, only 12 letters would reach my office from my constituents, and only yesterday did the 12 letters come. I never dreamed of such a thing, never dreamed of it.

Yes, I was there in the House of Representatives when the Puerto Ricans, who were in the galleries, shot Members of the House who ran for the doors, who fell behind the desks, and who fell in the center of the floor of the House of Representatives, wounded. Not until then did they require that Members have cards that they could present to the galleries. I sat there tongue-tied as I watched. I thought it was a group of demonstrators using firecrackers or some such until I saw Members fall.

Little did I know at that time that the day would come when this deadly anthrax would be delivered right to our building, right to our doors, the office doors, right to the desks of the workers. I never thought about that. But we know it now.

Our border security is dangerously underfunded. It leaks like a sieve. Right now, today, the Immigration and Naturalization Service conducts some 500 million inspections at our ports of entry every year. Yet there are only 4,775 INS inspectors to process these hundreds of millions of visitors. That is one inspector—just one—for roughly every 100,000 foreign nationals who cross the Nation's borders.

There are only 2,000 INS investigators and intelligence agents to track aliens who have entered this country illegally, overstayed their visas, or otherwise violated the terms of their status as visitors in the United States. That is one—just one —investigator for every 4,000 illegal aliens.

The U.S. Customs Service currently has the resources to inspect only about one-third of the truck cargo crossing the southern border. And of the 400 ships that dock in the 361 ports of this country, only about 2 percent of the cargo is inspected.

On our northern border with Canada, the Immigration and Naturalization Service currently has 498 inspectors at ports of entry and 334 Border Patrol agents assigned to the northern border. That is a 4,000-mile-long border. So that equates to about one INS inspector for every 8 miles and one patrol agent for every 12 miles of the 4,000-mile-long northern border.

Of the 113 northern border ports of entry, there are 62—more than half—62 small ports that do not operate on a 24-hour basis. Just imagine pulling up to one of those 62 ports of entry along the northern border where we don't have agents 24 hours at a time. There you will see a sign that says ''stay out.'' There you will see a yellow cone—not a person, not an INS agent, not a Customs agent but a yellow cone. It is open some hours of the day when there is nobody there during certain times of the day.

This week the Attorney General announced an emergency program to place National Guard troops on the northern border. A Justice Department official stated that ''it is a great vulnerability that needs to be dealt with immediately.''

This package reads, ''border security, $591 million,'' for additional Border Patrol agents and screening facilities primarily on the northern border. We must provide the funds and we must do so now.

I spoke a moment ago about our seaports, our lack of adequate port security. Our seaports are perhaps the weakest link in our national security. Yet they are just as important to our border security as are our land borders with Canada and Mexico. And yet they remain dangerously exposed. Ports are international boundaries through which 95 percent of U.S. international trade arrives.

Last year, we imported 5.5 million trailer truck loads of cargo. Yet the U.S. Customs Service has the resources to inspect only 2 percent of the cargo that enters this country by sea.

As we were preparing this package in my office, Senator HOLLINGS raised the warning sign: The need for money to be used for security of our ports.

With only 2 percent of the cargo that enters the country by sea being inspected, that means a terrorist would have a 98-percent chance of sneaking illegal and dangerous materials into this country. So our chances are 2 out of 100. The terrorists' chances are 98. So it is 98 to 2 percent.

The average shipping container measures 8 feet by 48 feet and can hold 60,000 pounds. That is just the average. A bulk ship or tanker transporting cargo can hold hundreds of times the amount of explosives or other dangerous materials that could ever be smuggled on an airplane or a truck crossing a land border. While agents at the U.S.-Mexican border are tearing the seats out of a car to search for drugs, a crane just up the coast a little ways in Los Angeles can lift thousands of truck-size cargo containers on to the dock with no inspection at all.

I remind my distinguished colleagues that Osama bin Laden has vast shipping interests which he used to transport and sneak into Kenya and Tanzania the explosives used in the U.S. Embassy bombings.

Last month, a suspected member of the al-Qaida terrorist network was arrested in Italy after he tried to stow away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source—how about that, its own power source—to operate the heater and to recharge the batteries. That terrorist was ready, he was prepared. According to the Toronto Sun, the man also had a global satellite telephone, a regular cell phone, a laptop computer, cameras, identity documents, an airline mechanics certificate, and airport security passes for airports in Canada, Thailand, and Egypt. He had thought of everything. This incident only expands what type of cargo we must be looking for at our Nation's ports.

The danger is here, and it is now, and it is not waiting until next year's supplemental to cross the desk of the President along about the middle of July or August.

Nuclear powerplants: In just the past few days, I can recall seeing headlines in the Washington press about the dangers to our nuclear plants in this country.

I have on the chart a map of the United States showing where the nuclear power reactors are, in the red cone, and where the nonpower reactors are. They are the reactors that are used for educational and research purposes. They do not produce power. The weapons complexes are shown by the green dots. The nuclear reactors are shown by the red cones. The nonpower reactors are shown by the blue squares.

There are 19 States in this country that have no nuclear plants, that have no power-producing reactors. There it is.

Mr. President, nearly every facet of daily life that was America prior to September 11 must now be regarded in a new light. We have to climb upward from the worm's clod, upward from the squirrel's tree. We have to go above the eagle's flights to see the world as it is and as the people out there who sent us here see the world, not through green eyeshades. But they see it every day.

Nearly every facet of daily life must now be regarded in a new and different light. The face of our enemy has become increasingly clear in recent weeks. He is an enemy who will live among us. He is an enemy who will enjoy our generosity and the blessings of our freedoms. Then he will callously turn all of these against us.

This is an enemy with no fear of death. None. He will count it an honor to die, to kill Americans and to die in the act. He will be immediately entered into paradise. They have no fear and apparently little regard for life. This is the enemy of our nuclear nightmares.

According to the Washington Post of December 4, U.S. intelligence has compiled credible information that Osama bin Laden and his al-Qaida terrorist network have taken several disconcerting steps toward developing radiological weapons. The Post reported that bin Laden and his loyalists ''may have made greater strides than previously thought toward obtaining plans or materials to make a crude radiological weapon that would use conventional explosives to spread radioactivity over a wide area, according to U.S. and foreign sources.''

There you have it. Now we are being warned. In fact, the Post relayed a discomforting description of a meeting within the last year in which ''bin Laden was present when one of his associates produced a canister that allegedly contained radioactive material. The associate waved the canister in the air''—as one would wave an aerosol air spray. Ha, here it is; I have it; eureka—''The associate waved the canister in the air as proof of al-Qaida's progress and seriousness in trying to build a nuclear device.''

Most young Americans have never known the fears of nuclear war that once haunted their parents and grandparents. They have never had to hunch under their school desks in nuclear drills or stock the family fallout shelter with jugs of water or cans of food in preparation for attack. We of our generation have seen these things. And while, to date, we have seen no evidence that bin Laden has the capability to deliver a nuclear warhead, he has made clear his intention to acquire such technology, and it is increasingly evident that he may well possess and be prepared to use a crude version known as a ''dirty'' bomb.

Clearly, he is well positioned to possess such a weapon and the makings of such a device are pitifully easy to acquire.

The key ingredient is radiological material, which exists in abundance in Russia, just next door to Afghanistan, and right here in our own country at nuclear power plants and research facilities. While we would like to believe that such material is closely guarded, the United Nations' International Atomic Energy Agency has confirmed 376 cases of illicit sales of stolen radioactive materials since 1993. That was in USA Today, November 3, 2001.

Although a dirty bomb does not have the kind of massive explosion that destroys broad areas, the detonation of such a weapon would have devastating consequences. Some experts have estimated that a single such bomb could cause 100,000 casualties within a 3-mile radius in an urban area, and render it uninhabitable for years, if not decades.

If we Senators think we have been terribly put out by the evacuation of our staffs from the southeast corner of the Hart Building—and my staff falls into that category—if we think that is bad, let the terrorists find some way—remember, bin Laden does not count his life as anything. He will gladly consider it an honor to lay down his life, not for his friend, as the Scriptures say, but to kill Americans. He would count it an honor.

Remember, they have shown they can deliver catastrophe, disaster. They can guide a plane into each of two world towers. They can demolish them. They can kill thousands of people. We need not ponder as to whether or not they could find a way to deliver this dirty bomb which, if exploded on The Mall in Washington, would render the buildings around The Mall uninhabitable. And if the wind were coming our way, it would do the same with the Capitol, and the people at the White House would not be at the White House any longer. They would have to go to ''undisclosed locations.'' For a month? For a year? For a decade? Picture that. What about the fear that would spread throughout the country?

It was in 1991—10 years ago recognizing the potential for the vast number of Russian nuclear weapons to fall into the wrong hands, that the Congress created the Nunn-Lugar Program to eliminate Russian nuclear weapons in a safe and secure manner. The budget for this program has been cut back for each of the last 3 years, but not because Russian nuclear weapons are now secure. In fact, in January 2001, a panel headed by former Senator Howard Baker and former White House Counsel Lloyd Cutler found that the threat of terrorists getting their hands on Russian nuclear weapons is the most urgent unmet national security threat to the United States today. Clearly that threat remains. My homeland defense package provides $286 million for nuclear nonproliferation programs that would help to get at these unabated sources of nuclear material abroad.

Moreover, my package contains $215 million to help secure nuclear facilities on our own shores, and to peacefully engage these 60,000 nuclear specialists in Russia not employed now that the Soviet Union has broken up.

It has taken decades of public relations and education to begin to ease the discomfort once prevalent among communities asked to house nuclear energy facilities. Even now, though the Nation boasts 104 nuclear power reactors, many Americans are unsettled at the thought of having such a nuclear neighbor.

Today, through long years of safe operations, nuclear power is a significant player in the international power generation game, and it is an important part of America's overall energy mix.

(Mr. DAYTON assumed the Chair.)

Mr. KENNEDY. Will the Senator yield for a question now or sometime later in his presentation, whatever would be agreeable? There are some questions in particular on Nunn-Lugar I am interested in addressing to the Senator as it applies to the whole issue of bioterrorism. But I am glad to wait, if he desires, to inquire of him after he has some additional time for his presentation.

Mr. BYRD. If I may continue for another minute or two, I will be happy to yield.

Mr. KENNEDY. I thank the Senator.

To keep it that way, nuclear power companies and the NRC recognize the need to reassure the public that their plants are secure—not only secure in the sense of the pre-September 11 world, but also impervious in the post-September 11 world. That may be one tough job.

Nuclear plants, though built to tough standards, were not designed to withstand the impact of a commercial jetliner. But what is really disturbing may be that, even though the plants have been designed with a goal of stopping an assault on land—something along the lines of well-armed intruders in heavy trucks or SUVs storming the plant—their tested security performance is surprisingly poor.

In fact, according to another recent article in The Washington Post though the plants are always warned in advance about the NRC's tests, which involve mock assaults by actor-intruders, 47 percent have revealed ''significant weaknesses'' in their security forces—significant being something in the realm of an American Chernobyl.

There are, however, other less well-publicized security problems at our nuclear facilities that need attention now.

Questions about just who is employed in our nuclear program in this country are begging to be addressed. The Los Alamos Laboratory scandal provided a mere glimpse of the security challenges confronting a field whose payrolls are thick with foreign-born employees, and a nation that has long provided educations to foreign students seeking to build careers in such fields as nuclear physics.

Moreover, in response to concerns about ''dirty'' bombs, many industry critics are currently looking with renewed concern at the 40,000 tons of spent fuel stored at operating and shut down plants in our own country. These radioactive pools, housed in standard concrete or corrugated buildings, have never been the focus of NRC security tests. The Union of Concerned Scientists reportedly refers to these buildings as ''Kmarts without neon.'' To a determined terrorist, they are thrift stores of bomb-making material.

NRC Chairman Richard A. Meserve, conservatively referring to the events of September 11 as ''a wake-up call,'' conceded that the terrorist acts have changed the agency's attitude about ''reasonably foreseeable'' threats, and ordered a ''top to bottom'' review of security rules. But whatever the outcome of the review, action is needed sooner rather than later.

The plants have already been placed on high-alert. Defenses have been bolstered on land, in the air, and on nearby waterways. Patrols of local police, as well as private security businesses and even some National Guardsmen, have been stepped up. All of these measures are costly. And a new review of our nuclear plants under the lens of terrorism potential is sure to identify additional security risks and recommend additional security measures.

Make no mistake about it, our overdependence on foreign fuels, particularly from lands where political tensions run high, is a vulnerability waiting to be exploited. If our energy grid is dismantled, if our power plants are attacked, if our nuclear advances are pirated and turned against us, America will feel the shockwaves. Moreover, if our nuclear plants are assaulted, if they can be made into weapons in our own backyard, the confidence of the public so carefully nurtured by the nuclear industry in recent years would be destroyed. It would be a heavy blow to our Nation's energy security.

I am happy to yield to the distinguished senior Senator from the State of Massachusetts, if he so desires.

Mr. KENNEDY. Thank you very much, Senator.

In reviewing the content of your proposal, I would like to ask a question. We believe as a Congress and as the Senate of the American people in giving the full support we can possibly give to the men and women fighting in Afghanistan—supporting their efforts with the best equipment, the best technology, the best leadership, and the best training. We have had good discussions and debates over a period of time as to how that can and should be done. I don't know if the Senator was there when we had the Secretary of Defense briefing Members of the Senate. He was asked specifically: Was there more to do?

His response was: We will have a chance after the first of the year.

As someone who listened to that briefing, I certainly felt, as a Senator from Massachusetts having supported the past Defense appropriations bills, we had done what was necessary to secure the defense and to carry forward America's interest in the battle against terrorists.

Now I ask this question: It appears to me we have followed our experts in assuring that those who are going to be on the front lines of the military will have the best resources. Shouldn't we follow the experts who are similarly engaged in trying to advise us as Americans what we can do and must do in order to battle against bioterrorism? It seems to me in reading through the thoughtful, compelling rationale for the Senator's amendment, that is just what this amendment does. I ask further if the Senator would not agree.

We have just heard in the past few weeks the head of homeland security, former Governor Ridge, say: Next year, we are going to have to spend billions and billions of dollars to build up our public health systems so we will be able to have an early warning system in this country. That is what has been recommended by the public health system that has studied the program. He is talking about billions and billions of dollars next year.

We have had the work group on bioterrorism preparedness, a conference of leading experts in bioterrorism and public health. It is probably the most distinguished group of individuals that have studied this problem—long before September 11. Many have been involved in the elimination of smallpox, as has Dr. Henderson. And having worked in the former Soviet Union, he recommended we needed at least $835 million just to begin to meet the public health needs to fight bioterrorists. That recommendation was made prior to the anthrax incident.

We have had the National Governors Association discussing their estimate in terms of the needs they face in public health. We have had the American Hospital Association discussing $11 billion so hospitals can be prepared. We have had Johns Hopkins University, which houses probably the most thoughtful bioterrorist center in the country, which Dr. Henderson headed. They said just to make the hospitals ready in the major cities is another $750 million.

This is billions and billions of dollars. I am impressed by the fact that the Senator's amendment is a modest amendment. It is targeted to current needs and can be expended immediately in order to make sure there would be safety and security for our fellow Americans.

I have difficulty understanding why the administration wants to wait until next year to start this process when we know if we wait, we are putting at risk the lives and the well-being of our fellow citizens. I am interested in asking the Senator, if we are listening to the best in terms of our military advice, shouldn't we listen to those experts in the area of bioterrorism who are advising and giving us notice. Shouldn't we listen to those experts who have an awareness of the countries needs, and try the best we can to follow their recommendations?

Is not the Senator's amendment a reflection of the best in terms of those who have studied this problem?

Mr. BYRD. Mr. President, the Senator is preeminently correct. As we in my office, our staff, considered this package, we were mindful of the testimony that had been given in the appropriations subcommittees. We were mindful of the subcommittee that had been chaired by Mr. DORGAN, the subcommittee that had been chaired by Mr. HARKIN, the subcommittee before which Senator KENNEDY and Senator FRIST, the eminent ''one'' physician in our midst, before which subcommittee they appeared and recommended moneys be spent for bioterrorism. I was visibly impressed by their testimony and commented on it. They had studied this matter quite at length. They had listened to the specialists in the field. They had listened to the Governors. They had listened to mayors. They had listened to legislators at the State level. They came up with this very tightly drawn package, bioterrorism package.

We have used that information, used that material and used the advice of

the Senator from Massachusetts and the advice of the Senator from Tennessee, Mr. Frist, as we put this package together.

So in that bioterrorism area, we have sought to improve the food inspection lines, we have sought to provide for additional studies of advanced and second generation anthrax and other viral agents, and we have sought to provide for the laboratory specialists, the CDS and the labs at the State and local levels, the moneys they need to deal with the next attack.

You see, we are not dealing with just the last attack. We are dealing preventively, we hope, against the next attack.

Let me take this opportunity to compliment the distinguished Senator. He has been busy day and night, and so has Dr. FRIST, in talking about, in working in connection with, this area of safety and welfare for the American people.

Mr. KENNEDY. I thank the Senator for his remarks.

I pay tribute to my colleague, Senator FRIST. Senator FRIST and I had hearings going back to 1998, 1999, and then passed legislation dealing with bioterrorism and also drug-resistant bacteria. The kinds of problems we were facing, healthwise, were similar to problems with many of these pathogens.

But I want to raise another question to the Senator. I have before me the review of the States by the Public Health Service. This is after the anthrax attacks that have infected 17 and killed 5 of our fellow citizens. What we have seen in the wake of these attacks is that our capacity to deal with this was right at the edge of being overwhelmed. And not just in the particular regions where these incidents took place but all across the country, all across the Nation.

I will just read about a few of the States. I will include in the RECORD a few examples from the States that illustrate this. Let me mention these incidents and ask the Senator whether this is something to which he believes his particular measures will respond.

Here is the State of Iowa after the anthrax attack. This report is very recent—just a few weeks old. They are talking about the public health situation of Iowa.

> The State and local public health systems have been overwhelmed trying to meet the needs of State and local law enforcement agencies in evaluating testing threats. We have been working 10-hour days and all weekends, just to try to keep our heads above water. We need help.

That is Iowa.

Ohio:

> We have processed 722 samples related to the anthrax threats in the laboratory. The signs of stress are showing in a number of staff as a result.

This is Ohio.

> There is not enough staff to respond to all the tentacles that are out there with the public in terms of these false attacks that were taking place.

Tennessee:

> Our communicable disease control in our 13 regions has been working night and day to respond to white powder exposures. The State laboratory has been overwhelmed with volume testing, 450 testings in 3 weeks. We have had to pull resources from other areas, leaving us vulnerable to food-borne outbreaks.

In Wisconsin:

> We have processed more than 400 anthrax related specimens since October 10. The staffs are overwhelmed and overstretched.

This is true in just about every State of the country. These examples are just a result of these past weeks. The Senator is asking why should we take a chance with the health and the lives of the American people in not putting in place the kind of mechanisms we have had recommended to us in order to protect the lives of American people.

Senator, earlier today in the Judiciary Committee we heard from Attorney General Ashcroft. He spoke of all the emergency steps that are being taken in order to deal with the problem of terrorism here at home. We are supportive of so many of those. We heard of the extent to which we are going in order to protect the lives of American people, and all the times we might have to bend the civil liberties of the American people in order to protect them. We are here to make sure we are going to try to get it right—that those steps are going to be effective and they are going to be able to do their job and while also protecting our rights.

Now we come over here this afternoon, and the Senator from West Virginia has an eminently reasonable, responsible amendment. His amendment responds to the findings, the recommendations, and suggestions of people who know this business, and we are told, well, we don't have to deal with this.

I commend the Senator for his thoughtfulness in bringing this together.

I will just make a final, quick point and ask the Senator whether he might agree with me. We have a strategic oil reserve. We have this strategic oil reserve in order to protect the American industry and American families if we run short of oil or if oil is going to run excessively high in cost. I wonder why we should not have a strategic pharmaceutical supply, so we are able to guarantee to every child, every elderly citizen, in this country that if we face the challenge of smallpox—that they will be adequately protected. If we can do it in terms of oil, it seems to me we ought to be able to do it in terms of smallpox. The amendment of the Senator from West Virginia moves us down that path. Any Senator who supports that amendment will be able to go back home, and in any town meeting they have with parents around this country, they will be able to say: We voted to make sure we are going to be able to provide smallpox vaccine if it becomes necessary to protect your child.

How does anyone believe that is somehow a failure of investing in the security of this country?

The bioterrorism amendment of the Senator is a few billion dollars. We are spending billions of dollars overseas—and I support that. Why is it we are willing to spend billions of dollars overseas to try to dislodge al-Qaida that may kill some Americans in the future, and fail to support the amendment of the Senator from West Virginia, which is a few billion dollars in order to protect American citizens? I just don't understand it.

I don't know whether the Senator can help me to try to understand the rationale and reason for that because it seems to me he has made eminently good sense. The amendment is based upon the solid record of those who have studied this particular issue and is in response to the needs we are facing.

I know the Senator has other matters to which he wishes to speak. But I remember when we had the Office of Technology Assessment. They did a study about the potential impact of an anthrax attack on the United States. It was going to cost, for 100,000 Americans who were exposed—it was going to cost $26 billion, for each 100,000 Americans who were exposed.

We are talking about all different kinds of possibilities. The Senator has in his homeland security proposal a very important downpayment to make sure we are going to meet those threats. He has other very important measures to which I know other Members want to speak. But the evidence is there.

I mention finally on the bill the Senator referenced—the bill Senator FRIST and I introduced—there are now 74 cosponsors of that bill. Yours is a slight degree above the Frist-Kennedy bill, but there are 74 cosponsors for our bill.

I, again, thank my friend and chairman of that committee for his foresight in this area, and for all the good work he is doing to protect families on the issues of bioterrorism. I know that later on we are going to have an amendment by the Senator from Indiana with regard to the Nunn-Lugar proposal which will help deal with the problem and dangers of nuclear proliferation.

Also, we are concerned about the dangers of proliferation of bioterrorist material that exists in the Soviet Union. The Soviet Union at one time was able to produce 24 tons of anthrax a day. They have stored that in various areas. Even Mr. Chernov, who was a member of their national security council, was warning that he was not satisfied that they had adequate protections.

We are interested in trying to work cooperatively with the Soviet Union to contain it.

We are interested—as this amendment will do—in building the early warning systems through the public health systems. We want to build and support the treatment which is necessary in terms of helping and assisting

the hospitals, and we want containment so that it will not expand.

The Senator from West Virginia has an amendment that deals with all of those measures as a downpayment for every family to make sure they are going to be protected from a bioterrorist attack.

I commend him and look forward to supporting his amendment.

Mr. BYRD. Mr. President, I thank the Senator for his cogent, lucid, and very pertinent remarks. It boggles my mind, it boggles my mind and my imagination that there is opposition to this package.

Does the Senator know that we have this package wrapped up and tied with a little blue ribbon, and on that ribbon is the word ''emergency?'' We have an emergency designation on this whole package.

If the President wants to use the money, it is there. We say: Here it is, Mr. President. We want to help you keep your promise to the military.

There is $21 billion for the military. That is what the President said he wanted for defense. Every penny is there. We have not cut a penny.

He said on September 20 to the joint session of the Congress—I was there, the Senator from Massachusetts was there in the House of Representatives when the President spoke.

> Our Nation has been put on notice. We are not immune from attack. We will take defensive measures against terrorism to protect Americans.

Here it is. Right here is the defensive measure to protect Americans against terrorism. I am trying to help the President keep his promise.

He also promised $20 billion for New York City and the other communities that were involved in that attack. He promised them. We are committed to it. We are trying to help the President. I am not trying to get in his way. I am not trying to embarrass the President. I am saying, Mr. President, let me on your boat.

I am trying to help him. Here it is. You don't have to spend it because we have an emergency designation.

What is wrong with that? Who can complain about that? The American people want this. They need it. They are entitled to it, and we have a responsibility to give it to them. This is defense. Whether it is in the foreign fields or here in this country, it is defense.

When we talk about helping our military, we have military people in this country. They are training in this country. They are in Georgia. They are in South Carolina. They are in California. They are all around the country. They, too, might suffer from a pathogen that comes in the mail. They, too, might suffer from a terrorist act.

We are acting to protect our people, whether they are in the military, or whether they are not in the military, in this country and abroad.

We are trying to help our President to keep his promise. We are not trying to be a problem for him. We are trying to help him.

I am sorry that I think he is being ill advised by some people around him. I will not name of whom I have suspicions. But I think the President is well meaning. I was impressed with the President when he spoke at the House of Representatives. But I think he is being ill advised.

This is not a party matter. It is not a Democratic matter. It is not a Republican matter. It is a not a Republican threat.

So help us. Let us join together and fulfill that first phrase of the preamble of the Constitution:

> We the People . . . in Order to form a more perfect Union . . .

Let us form that more perfect union. Let us form it here. Let us form now that more perfect union. Let us have no aisles separating Democrats from Republicans on this issue. This is not a political matter.

I thank the distinguished Senator for his observations, for his good work in this area, for his support of this effort, and for the leadership he is providing.

Mr. DORGAN. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. DORGAN. Mr. President, I wanted to ask the Senator from West Virginia a question about the issue of border security for which he provides in his amendment.

I am especially interested in the issue of the security of our northern border. We have twice as many Customs agents on the southern border between the United States and Mexico as we do on the northern border between the United States and Canada.

With respect to the Border Patrol, we have roughly 500 Border Patrol agents on the northern border between the United States and Canada to control those 4,000 miles. We have 9,000 agents on the southern border between the United States and Mexico.

I note that the Senator has included in his amendment some resources to deal with this border issue. The reason I ask the question is you cannot provide security for this country unless you provide security for our country's borders—not just some of the borders but all of the borders because the terrorists will seek the weakest link.

There was recently a story of a fellow from the Middle East who was shipping himself in a container to Toronto, Canada—a suspected terrorist. He put himself in a container. He had a food supply; he had a heater; he had a global positioning satellite mechanism; he had a cell phone; he had a toilet. He had all the comforts. He had food.

When they found him in this container on a container ship having tried to ship himself to Toronto, Canada, he got out of the container, and they said he was very well dressed. He looked quite well.

The question is, If he is shipping himself in a container to Toronto, Canada, to come into this country to commit a terrorist act, do we have the resources on the northern border to be sure that we are going to catch suspected terrorists or those associated with terrorists who are trying to come into our country?

At the moment, on the northern border, Customs agents are working 12 to 14 hours a day, 6 days a week, and have ever since September 11.

The President did not request additional resources for new Customs agents. He requested some additional resources to pay for overtime, which they will have to do given these outlooks. But the fact is, we need more agents. We need new resources.

It is very interesting that a request was made by the administration for Border Patrol agents and for immigration agents but not for additional Customs Service agents.

The Senator, with his amendment, has provided for additional resources for our border protection and border security, especially on the northern border. Is that not the case?

Mr. BYRD. That is true. We have presently 498 inspectors on the 4,000-mile long northern border—334 individuals who travel from one area to another, the Border Patrol—and at 62 of the 113 ports of entry along the northern border nobody is watching at certain hours of the 24-hour day.

We are trying to provide additional moneys in the amount of an extra $551 million to meet these needs and to meet them now. Yes.

Mr. DORGAN. Mr. President, if I might inquire further of the Senator from West Virginia, I have traveled to those border ports of entry. My State has a long common border with Canada. I have been there at 10 o'clock in the evening when the port of entry closes. I have seen what they do. On that paved road between the United States and Canada, at closing time, they put out an orange rubber cone in the middle of the road, and that is our security past 10 o'clock at night.

As I have indicated, an orange rubber cone cannot walk, it cannot talk, it cannot shoot or tell a terrorist from a tow truck. And the polite people who violate our ports of entry, they apparently stop the car, after the port of entry is closed, and they actually move the rubber cone, drive through, and put the cone back. Those who are not so polite come running through at 60 and 80 miles an hour and just shred the rubber cone.

The point is, terrorists will always find the weakest link. For this country to have good security, adequate security, that gives people confidence, you have to have security of all of your borders. And it has not been the case with the northern border.

It is the case that the Port Angeles point of entry is where the so-called millennium bomber tried to come through, and a very alert Customs agent caught the millennium bomber who was intending to bomb the Los Angeles Airport.

It is also the case that Middle Eastern folks were inquiring in a small Canadian town just 100 miles north of the border of North Dakota about the capability of crop-spraying airplanes. This was at the time Mohamed Atta was doing the same thing in Florida. And others were doing the same thing in other parts of the country—150 miles from Minot Air Force Base where we have our B–52s housed.

The point is, we must be concerned about all of our borders. I deeply appreciate the Senator's amendment dealing with the northern border security, which was left out—with respect to the Customs Service, especially—of the President's request.

If I might say, as I continue to inquire, it seems to me the proposals offered by the Senator from West Virginia are proposals that everyone supports. The head of homeland security, Governor Ridge, says, yes, we need to do these things. The administration says, yes, we need to do these things. The disagreement is about timing.

The issue is, should we do them sooner or later? The administration says, let's do them later. The question is, Is there risk for this country in waiting until later? Will terrorists wait until later? I do not think so. I think the American people will be better served by our deciding to make these investments now and protect this country now. The issue of sooner or later ought to be, in my judgment, resolved by this Senate in favor of sooner, taking protections sooner for the American people, taking the steps necessary to minimize the risk of terrorism.

Now, let me make one final point as I ask a question. The administration, just in the last couple of weeks, has once again indicated to the American people there is a high threat of a terrorist act, according to some reasonably credible evidence that exists. This is the third time we have heard this. I am not critical of that at all. I believe it is their obligation to inform the American people under those circumstances.

But if, in fact, it is the case that there are credible pieces of information about terrorist threats against this country that could cause great harm to the American people, isn't it also reasonable and logical, then, for us to understand the urgency of making the very changes that the Senator from West Virginia is now counseling we make with respect to homeland defense and homeland security?

I ask the Senator from West Virginia, Do you not believe that the issue here is not policy, not whether we should do these things, but the disagreement is about when they should be done, and that the administration is simply saying, we do not necessarily disagree with what you want to do, we just believe it ought to be done later? Is that the case?

(Mr. CORZINE assumed the chair.)

Mr. BYRD. That appears to be the case. And it boggles my mind to think that while we have a perfectly logical, commonsense approach here of providing to the President the means whereby he can deal earlier, quicker, more effectively with possible terrorist attacks—we have it in a package here; it is designated ''emergency;'' he can use it, he can not use it—we are being asked to vote against this package. I cannot believe the President is receiving good advice. I have to believe he must be receiving some partisanly political advice from somewhere down the line. It does not make sense.

Why would the President be opposed to our providing this now? We do not lose anything by it. We have everything to gain by providing this now. It is our responsibility, it is our duty, to provide for the common defense. And if this isn't common defense, I do not know what it is, if it does not fall within the category set forth in the preamble that we should provide for the general welfare. This, it seems to me, we have to do.

Mr. DORGAN. Mr. President, if I might make one additional inquiry of the Senator from West Virginia.

I want people to understand, as I know the Senator from West Virginia does, that when we have a disagreement here—which is only about the timing of when we ought to do what we should do for this country's homeland defense and homeland security—it is not a circumstance where we are confronting this President in a way that says, we are not supportive of what you are doing for America.

In fact, there is, in my judgment, general support and admiration for this President's leadership with respect to the prosecution of the war against terrorism. I think they have had a spectacular success. I indicated to Secretary Rumsfeld just a few moments ago how much I admire his service and respect what he has done. I think the President also has shown outstanding leadership in a number of these areas.

So this is not a confrontation with this President during a period of conflict. There is no disagreement about support, widespread, passionate support, for this administration and the administration's prosecution of the war on terrorism.

Mr. BYRD. Absolutely.

Mr. DORGAN. This issue is simply an issue of what kinds of investments do we believe need to be made to protect this country, what kinds of homeland security and homeland defense investments do we believe need to be made. In fact, if you read, day after day, the press accounts from Governor Ridge, and others, they will say that they agree with all of the recommendations we are now talking about.

It is unfathomable to me that we should continue, month after month, now saying we will not put any additional Customs agents on the northern border. I do not think anybody in this country can take comfort from that. Everybody understands you must provide security on our borders, you must provide additional security on the northern border. If not, we do not have border security. If you do not have border security, you have an added risk of a terrorist being successful. That is why the timing issue here is critical.

This is just about the question of whether we ought to do what Senator BYRD is suggesting now or later. If we do not do it now, 6 months or a year from now it will be done by the administration. And God forbid some terrorist act would occur in the interim that we could have well prevented with this additional vigilance, with the resources provided in this amendment.

So I would ask the Senator from West Virginia to continue his efforts on the floor of the Senate and see that we are able to enact this amendment. I know some believe that this is confronting the President. It is not at all. It is helping this country and helping this administration do now what they say, in any event, they want to do later. It makes much more sense, it seems to me, for us to make this investment for America today.

I thank very much the Senator from West Virginia for yielding.

Mr. BYRD. Mr. President, I thank my friend.

We are not being confrontational. I have no hesitance whatsoever to be confrontational with the President of the United States or anybody else. Let the President advocate fast track; I am ready for that confrontation, and so is the distinguished Senator from North Dakota.

We are not being confrontational. We are trying to live up to our responsibility. We want to work with the President. We want to help the President. I want to help him to keep his commitment when he said on September 20, in that joint session of Congress, ''Our Nation has been put on notice we are not immune from attack. We will''—not maybe—''We will take defensive measures against terrorism to protect America.''

Now, Mr. President, this is what we are trying to do. We are trying to help our national leader keep his commitment, and yet there is a veto threatened—a veto—a veto. I cannot believe the President has reached this decision in his own mind—a man who, when he took the oath of office, referred to the Scriptures, referred to the good Samaritan on the road to Jericho. It gave me a new sense of confidence and trust in our President.

President Eisenhower, when he was inaugurated, prayed. He didn't call on somebody else to pray; he prayed. Eisenhower himself prayed a prayer. I was impressed and thankful. So this President has the support of the American people in the war effort. There is no question about that. The people have rallied. There is no party spirit in the rallying of the American people behind their President when it comes to the prosecution of a war overseas.

Why should they be denied the support of the administration in this effort to deal with future terrorist acts?

We are not being confrontational. We want to help the President. We are not interested in this from a political party standpoint. There is no dividing aisle here. We are dealing with the protection of the American people. When we protect the American people, we protect the military men and women who are here in this country. We protect them from terrorist acts. We protect all citizens. We protect the old, the young, the weak, the sick.

Why do we have to draw political lines in a matter of this solemn nature? This is not a Democratic proposal. This is not a Republican proposal. Safety, to the American people, has no political designation on it. We have this duty. I think we would be recreant in our duty and it would be criminal if we did not act when we know what has been said to our committees and when we know from what we read in the press that all these things are available. Yet we say, wait, wait.

I think we may be in the position of the five foolish virgins. When the bridegroom came, they had no oil in their lamps. He knocked at the door. ''We have no oil in our lamps.'' That is what we are trying to provide here so that we will not suffer the fate of the five foolish virgins.

I thank the Senator for his observations and his contributions.

Mrs. CLINTON. Mr. President, will the Senator from West Virginia yield for an inquiry?

Mr. BYRD. I yield to the distinguished Senator from New York.

Mrs. CLINTON. Mr. President, the Senator from West Virginia is aware of the recent rather sobering comment that our Vice President made with respect to this war, that we are fighting on two fronts, that we are likely to suffer more casualties on our homeland front than we will across the seas?

Mr. BYRD. I am aware that he said this. He said that, for the first time we are more likely to suffer casualties on the homefront than among our forces here or abroad.

Mrs. CLINTON. I thank the Senator from West Virginia for the careful attention he has given to the threats we are confronted with today. I thank the two distinguished ranking members who are in the Chamber, the Senator from Hawaii and the Senator from Alaska, for coming to New York City to go to ground zero to see what happens when our country is attacked the way we have been.

I inquire of the Senator regarding the work he has done with respect to preparing this extremely important amendment that understands our defense needs are both with our men and women in uniform, and we are all supportive of the President and our military leadership and very proud of the extraordinary work being done to root out the terrorist network, but we also have credible threats here at home.

In fact, just as a reminder, this is what war looks like when it is brought home to our own shores. These are pictures, as the Senator from West Virginia knows so well, of the attack New York City suffered on September 11, pictures of the devastation that occurred, pictures of the men and women who are on the frontline of defense—the firefighters, the police officers, the emergency responders—who, just as our men and women in uniform, our special forces, as well as our Marines, our Navy, our Air Force, our Army forces across our country and the world, are on the front lines of defending us at home. Here is what our defenders look like in the streets of New York. They could be in the streets of any of our cities.

May I inquire if the Senator, in constructing this very thoughtful amendment that takes into account our defense needs at home, took into account, as I know he did, the extraordinary devastation and damage the city of New York has suffered because the attack on New York was an attack on America?

Mr. BYRD. Absolutely. May I say that the two distinguished Senators from New York have not once, have not twice, have not thrice, but many times talked with me about the needs, the immediate needs, of the people of New York. They have talked to me about the suffering that the people of New York have had visited upon them by this beastly attack. They have continued to implore me, as chairman of the Appropriations Committee, to help them, to help the State of New York.

The Governor of New York came down to see me also. He sat at the table in my office on the floor below and pleaded with me to provide help and succor and comfort in the form of dollars for New York City.

Mrs. CLINTON. The Senator has heard those cries for help and has, along with the committee, responded in our time of need, for which all of New York is grateful. It goes beyond that.

As we look at these pictures, as we are reminded of the devastation and destruction, we know it is going to take a long time to recover. We know that what the Senator has very thoughtfully provided in this appropriations bill will put us on the path toward recovery, will put money into the pipeline.

As the Senator knows better than anyone, it will be quite sometime into next year before another appropriation can possibly be obtained.

Mr. BYRD. It will be.

Mrs. CLINTON. Isn't it correct that it is likely to be late spring at the earliest before any additional money would flow to New York?

Mr. BYRD. The Senator is correct.

Mrs. CLINTON. As a result, because of the estimates of $100 billion of damage, so clearly shown here in the difference of what this part of our country looked like on the morning of September 11 before the terrorists wreaked their evil on our country and what it looked like afterwards, we know very well it is going to be a long struggle for us to recover. The fires are still burning. We need to get contracts let.

We need to repair the destruction that has been done to our streets, our highways, our infrastructure. We need to help our hospitals that were so prepared; they literally did all they could in spite of the damage they suffered. They lost their generators. They lost their billing systems. Their computers went out. But they stayed on duty. They didn't ask anyone who was brought in injured, a rescue worker who was injured on the job: Where is your insurance? You can't come in this door today because we don't know if you can pay. Everyone was brought in and given care.

What I have learned from that and what I commend the Senator for understanding is that New York City was probably better prepared than any other city in the country because of the work that had been done. Of course, the heroic efforts of our police and especially our firefighters and our emergency workers showed that preparation.

What the Senator is trying to do, as I understand it, is not only to help us with the extraordinary needs we face to get us on the path of being able to use these dollars in the way they should be used—accountably—but to get the money in the pipeline as opposed to waiting until next year.

Mr. President, the Senator from West Virginia is also telling us we have to be prepared in case this happens anywhere else in the country; is he not?

Mr. BYRD. Yes. I am also saying those tunnels that go into Penn Station in New York are traps. They were built before World War I. I am passed 84 years of age, and they were built before I discovered America. They are inadequately ventilated, they are inadequately lighted, and the escape routes are inadequate. There are 500,000 individuals who go through that station every workday. There are 750 trains. Yet how much has been appropriated to prevent another catastrophe there to rebuild the tunnels?

Yes, I know. I have heard from the Senator, and I have heard from her senior colleague. They have not been recreant in their duty. They have been very effective. As I say, the Governor of New York has been in my office. I hope he will support this package because it will help him; it will help the State of New York; it will help the people in the fire departments; in the police departments, the paramedics in New York City and other cities in New York.

We have that responsibility. I did not go to New York. I am one of the few national politicians who did not go to New York City. I did not need to go.

Mrs. CLINTON. This Senator knows very well that the Senator from West Virginia has a grasp, an understanding of what happened, not only with respect to the attacks but also the anthrax which came to New York to our

Postal Service and to our media offices as well.

Mr. BYRD. Yes, I saw it on television. I saw it on the agonized faces of wives, mothers, and fathers. The terrorists made many widows that day. The terrorists made many orphans that day. I saw it in the sweaty, grimy faces and hands of the workers, sifting through the rubble. I did not need to go. I would like to have gone, but I made the same commitment that those individuals in high places made who did go.

Now is the time to keep our commitment. I believe that a promise made is a debt unpaid, and I promised the New York Senators that I would try to help them, and I have done everything I can. I promised the New Jersey Senators, one of whom presides over this Senate at this moment with great dignity, skill, poise. I am keeping that promise. The President promised, and I am trying to help the President keep that promise.

I am not being confrontational about it. I want to help. Can we not just join hands once, one time and not be political about this and help to form a more perfect union and fulfill that phrase that is in the preamble of the Constitution?

I thank the Senator.

Mrs. CLINTON. I thank the Senator for his extraordinary efforts and his very fine work on this amendment, which will strengthen our national defense at home as well as abroad.

Mr. BYRD. I thank the Senator.

Mr. President, continuing along the line that the distinguished junior Senator from New York was pursuing, on May 10, Chief Jack Fanning of the New York City Fire Department testified before the Senate Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary on the role of the fire service in responding to terrorism.

Fanning, the officer responsible for the New York City Fire Department's hazardous materials operation, said that in preparing for terrorism, ''The emphasis must be placed on the most important aspect of the equation, the first responder, and first responder team.''

Mr. Fanning was talking about the people at the ground level, the people at ground zero, the people who are the first to arrive when the alarm bells ring.

Fanning said:

> If lives are to be saved and suffering reduced, it will be up to them to do it.

Meaning the first responders, the first responder team.

> At an incident, whatever the scale, firefighters and other responders will be there within minutes, some quite possibly becoming victims themselves.

Those were the words of Mr. Fanning. His testimony concluded with the following:

> They [the first responders] will do what they have always done, act to protect the public they serve. Knowing this, let us provide them with the tools they need to perform their duties safely and effectively.

Prophetically, Fanning was among the 343 firefighters, including the city's fire chief and most of the senior staff, who died in the World Trade Center collapse. There, as it were, is the voice from the grave telling us again, do something, do it now.

The people at the local level need help. They are the people who are the first on the scene, the first to save lives, and perhaps the first to give their own lives.

Before I turn again to the chart, this is another chart which visibly displays the situation as explained by the very distinguished senior Senator from North Dakota a little earlier when he talked about the ports on the northern border being closed, and this is what the chart says: ''Stop,'' with a big red sign.

> This port is closed. Open daily at 9 a.m. Warning, $5,000 fine for entering the United States through a closed port. Nearest open port is 70 miles east at Portal, North Dakota, on Canadian Highway 39.

There we have it. We can see the orange cones sitting around the side. My colleagues will recall the distinguished senior Senator from North Dakota said some trucks and automobiles will pull up to the sign and the driver or someone in the car or truck will get out, move the cone, and drive right on through. Or, he said, some will just press their foot on the accelerator and at the speed of 75, 80 miles an hour go right through those cones and leave them in shreds. That is the visual of the warning Senator DORGAN was speaking about.

Now let us go back. Some Senators may wish to take a look at the chart so we will set the chart in the chair in front of me.

That is what we are trying to help with. We are trying to provide live men and women at those ports of entry that presently are not covered 24 hours a day. That is what we are trying to do in this package. We are saying do it now, do not wait, do not gamble with fate.

We have already fallen behind in complying with the aviation security bill recently passed by the Congress and signed into law by the President. The Transportation Secretary said last month on November 27 that the Federal Government cannot meet the January 18 deadline that all checked baggage be screened for explosives. The new law requires that by the end of 2002 all checked luggage be screened using explosive detection systems. That would require 2,000 machines at a cost of $2 billion, according to the Federal Aviation Administration.

We cannot wait until next year to provide these funds if our Nation's airports are to comply with the tougher airline security required under that law.

Last month, on November 3, a man carrying seven lock-blade knives, a stun gun, and a canister labeled ''tear gas/pepper spray,'' slipped past security screeners at Chicago's O'Hare Airport. It was a stunning breach of security. At a time of heightened scrutiny, everybody should have been looking. The would-be passenger, who had already been stripped of two knives at a prior security checkpoint, made it to the boarding gate before airline personnel in a second check discovered the other weapons. Here was a mini arsenal on two legs walking right straight for the door of the airline, and he was almost there.

These incidents follow a recent surprise inspection by the investigators from the inspector general's office of the Transportation Department and of the Federal Aviation Administration at 14 airports across the country.

In October, FAA inspector general agents found a man who passed through a metal detector at Dulles International Airport with a knife in his shoe. Now why is he carrying a knife around in his shoe?

In September, a man went through security in Atlanta and realized before boarding the plane he had a pistol in his carry-on bag.

The American people want tougher security at airports. One can see it in the half-full airplanes taking off from our airports every day. Even after grounding nearly 20 percent of their planes, airlines filled only 63 percent of their seats in October according to the Air Transport Association. So that is still 8 percent less airline traffic than in October of last year, well before the September 11 attacks.

Airports need funds to increase the visibility of law enforcement personnel for deterring, identifying, and responding to potential security threats. Additional staff persons are needed to conduct security and employee identification checks through airports. Airports with tighter budgets, particularly smaller airports in rural areas, are unable to absorb these new costs.

This package provides $238 million to hire law enforcement personnel and improve protection for you, you who are watching through those television cameras.

I simply cannot understand the logic of opposing this package. Who would choose to allow their family to live in constant fear? What parent would repeatedly warn a child of predators on the playground and then send the child out to the park unattended and unprepared to protect himself? What is the sense in telling the people to be brave and then denying the people even the most modest, necessary protections?

Budget agreements are certainly no reason. This package bears an emergency designation. With that emergency label, this President could choose, as I have said repeatedly today, not to spend these funds if they prove to be unnecessary to spend at a given time and for a given purpose. But at least the funds would be available should the need arise. This package also contains provisions to ensure that

these funds are not counted in the baseline calculations in future years.

Get that. I am not trying to build up future budgets. I am not trying to use the funds accounted for in the baseline calculations to increase the budgets in the future years. There is no outyear growth, no multiplier effect. It is a simple, straightforward investment in protection at a time of national crisis.

To say we are willing to gamble the safety of the American public on the bet that no additional attacks will occur, that no additional vulnerabilities will surface, that no additional security precautions will have to be taken, defies common sense. It defies logic.

The President has declared we are in a state of national emergency. He did that some time ago. His administration has issued three alerts, three broad warnings of possible terrorist attacks, three alerts to the American people. We must respond to our national emergency. We must take matters in hand and guide this Nation through this time of uncertainty, this time of danger, this time of darkness.

I urge my colleagues to vote to provide the American people with basic protections at a time when the American people are most vulnerable. Forget your politics. Politics has nothing to do with this—nothing. This package fulfills our commitment to provide $20 billion to New York in response to the September 11 attacks. I urge my colleagues to support this package.

On a statue in Atlanta, GA, are these words inscribed in memory of Senator Benjamin Hill, a great Senator, great orator: He who saves his country saves himself, saves all things, and all things saved do bless him. He who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him.

Let's vote to save our country. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2243

(Purpose: To provide for the allocation of supplemental emergency funds.)

Mr. STEVENS. Mr. President, the chairman has presented a program which is a program for the future, without any question one that reflects a substantial number of meetings that I have had with the chairman, and others, over a period of time since September 11. We have, however, a position taken by the President of the United States that he believed we had an agreement not to exceed the $40 billion that we previously approved for supplemental money for 2002 to cover the expenditures required to initiate the recovery from the disastrous attacks in our country on September 11 of this year.

We have before the Senate section A of the committee bill, the Defense appropriations bill for 2002, that was prepared by my good friend, the chairman, DAN INOUYE of Hawaii, and me and our staffs. It has been included in the amended version reported by the full committee that Senator BYRD has described and has been reported as we presented it, as a matter of fact.

Senator INOUYE's version of the Defense bill for next year is in section A. I do not intend to address that at all. I do, however, address the problem presented with the President's position of not wanting additional money at this time beyond the $40 billion that he previously agreed to when he signed the supplemental we previously passed this year. To achieve that goal, I now call up amendment 2243.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2243.

Mr. STEVENS. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. STEVENS. Mr. President, let me describe, if I may, the problem we face. We are in the month of December, which is the last month of the first quarter of fiscal year 2002. When we finish this bill, however it may look after it goes to conference with the House, and then goes to the President and the President signs it, it will be approximately the end of the year. In other words, the new money in this bill will be spent in three of the quarters of the calendar year 2002.

Realizing that, I visited with my good friend, Chairman BYRD, and suggested we deal with the issues he wanted to deal with by putting additional money in the bill as money to be made available in 2003, the first quarter of 2003, which would be the last quarter of calendar year 2002. Had we done that, we would have stretched the payments over the normal four quarters of a year. I think we may have been able to solve the issue that way.

Senator BYRD said he would rather proceed with the 2002 bill. It does, I might add, have some extra points of order that could have been raised against the other approach. So he deferred on that, and we went back to the drawing board to see what we could do to deal with the problem of the President's position and the position just presented by Senator BYRD.

Let me say, basically, I believe as the future unfolds in this country, substantially all of the additional $15 billion that Senator BYRD wants to make available will be requested by the administration. I will be surprised if they don't request more than that. The problem is, how much money should be pushed into the system now?

We had a bill before the Congress when we first reacted to the events of September 11. We were requested to present a $10 billion supplemental. Senator BYRD and I had some meetings and we decided that ought to go up to $20 billion. While we were working on that, we got word that the President had gone into the Rose Garden with some people from New York and Virginia and Pennsylvania and agreed it ought to be $40 billion. With the leadership of Senator BYRD, we charted through the quarters of the legislative process a supplemental providing $40 billion: The first $10 billion to be available to the President without any interference by Congress, the second $10 billion to be available after 15 days' notice to the Congress on how the President intended to spend it, and the last $20 billion to be available in an appropriations bill to be passed by the Congress.

This bill covers the $20 billion, the last $20 billion of the $40 billion.

We have had a great many meetings, hearings, and consultations from a vast number of people in the country who believe there should be more money available now. Were I President, I think I would agree. But I am not President.

Mr. President, we are at war. We really are at war. We are in a period of time where, if we take action to challenge the President now, we could well leave an impression, I think, that we do not have bipartisan support of the President as Commander in Chief.

I have changed my position on this matter. I told my friend, the chairman of the committee, that I had. I believe we can legitimately say that the money we make available now through this bill and through the bills that are still pending here: the Labor, Health and Human Services bill, the Foreign Assistance bill—before we are through here, we will have presented to the administration $375 billion more than is available to the Presidency right now.

The current level of expenditures by the Department of Defense, for instance, is based on the year 2000. We have increased that considerably. The amount of money available to the President for the conduct of the war, really, under the Food and Forage Act—I have to explain that. There is an old act that allows the President of the United States to spend money to pursue conduct of a war or when there are troops deployed, our troops deployed. We saw it in Kosovo; we saw it in Bosnia; we have seen it in connection with the activities of the alert in South Korea; we have seen it in many instances. This President has not used the Food and Forage Act yet, but he could use any of the money in this bill to achieve the goals Senator BYRD would achieve with $15 billion and come to us later and say, we want the money.

In any event, beyond that, we have been told there will be—by Governor Ridge and by the President himself—there will be a request presented to Congress early next year for supplemental moneys for the year 2002, to pursue the further activities that are necessary to meet the problems of homeland defense and the problems of

recovery from the disaster of September 11.

I believe what we have to do is to look again at the $20 billion and allocate the $20 billion in a way to make sure there is available now enough money to handle at least the first quarter of the next year—that will be the second quarter of the fiscal year—and then some.

So what I have done, in an amendment that is now pending, is to allocate the $20 billion in that fashion, pursuing, to a vast extent, the recommendations of Senator BYRD and his $15 billion additional. The amendment before the Senate right now, addressing division B of the pending bill, would amend that division B to allocate the $20 billion in this fashion: $7.3 billion for the Department of Defense, of which we have earmarked $2.3 billion for bioterrorism defense. I emphasize that. The Department of Defense should have a great role in the total defense of the country. I think bioterrorism is one of the key issues. I believe that is one of the key issues of Senator BYRD.

We allocate $7.05 billion for New York. Of that, $5.05 billion is for the FEMA disaster relief; $290 million is for the FEMA Firefighters Grant Program; $2 billion is for the Housing and Urban Development emergency community development block grant.

We also allocate $5.65 billion for homeland defense. It is allocated, $1 billion for the Department of Justice—that is for FBI, INS, and the U.S. Marshals; $400 million more for the Department of Energy for nuclear facilities; $256 million for the legislative branch security; $800 million for Coast Guard and FAA security which includes $100 million for more airport security; $50 million for the White House security.

There is $334 million for the Treasury. Again, the Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Customs are included in that $334 million.

We have $300 million for food security, $100 million for the Justice Department general administration, Patriot Act, which is covered by Senator BYRD's proposal; $362 million for the Bureau of Justice Assistance, $237 million for State and local law enforcement, $775 million for Federal antiterrorism enforcement—that is executive, nondefense, of which $575 million is for the Postal Service, $100 million for cyber-security, and $100 million for increased security at public events.

We also add $94 million for NASA and for the National Science Foundation security upgrades, and $156 million for the EPA Counterterrorism and Anthrax Cleanup Program.

If one examines this supplemental, one finds that almost every single item mentioned by Senator BYRD is covered by our allocations. But they are lower. Admittedly, Senator BYRD had $15 billion in two emergency sectors. We have eliminated that and moved back into the $20 billion and allocated the $20 billion in a way primarily reflecting, to a great extent, what the House did. It also reflects to a substantial degree what the President originally requested. And it covers basically, as I said, all of the items Senator BYRD would cover.

In the $2.3 billion bioterrorism defense allocation, for instance, we have provided money for upgrading State and local capacities, improving hospital response capabilities, improving the CDC, starting a national pharmaceutical stockpile which includes the purchase and deployment of the smallpox vaccine that has already been purchased. That contract has already been signed.

It includes the National Institutes of Allergy and Infectious Disease at NIH, one of the signal areas that we must fund. And it has other preparedness activities.

The money for New York is committed to rebuild the infrastructure of Lower Manhattan. The FEMA disaster relief includes the $290 million for the FEMA Firefighters Grant Program, and it will involve grants to local communities to expand and improve firefighting programs through the FEMA Firefighters Grant Program. Over 50 percent of the funding will go to volunteer fire departments in rural communities.

We have tracked to a great extent what my friend has done: If you look at the money for homeland defense, $1 billion for the Justice Department more than they have now in their normal bill which has already passed, the State, Justice, Commerce bill. This adds to what they already have available, $1 billion for coordination of information in the field of FBI—particularly the Trilogy Computer Modernization Program. And it does address the INS construction backlog to make sure we can take care of the outposts that were mentioned by Senator BYRD.

There is $40 million for the Department of Energy nuclear facilities, which covers, again, really a downpayment on the program Senator BYRD announced in that area.

There is $256 million for legislative branch security. Again, I know of no argument about that. There is $800 million for the Coast Guard and FAA security. The port security hearing was held today, and this includes the port security task force creation to ensure coordination of the efforts to protect our ports. It also includes the $100 million to add to the moneys we already made available to carry out the new requirements imposed on FAA in the airline and airport bills we have already enacted into law.

I could keep on going. It has $300 million for food security to increase the number of food inspectors, as Senator BYRD indicated. It must be done.

But I emphasize we can put up the money Senator BYRD asked for. We can't find those people in just one quarter. The President's people are going to make some further requests. I think what we need to do is make sure there is money to meet any of the areas outlined by Senator BYRD available now, and see what Governor Ridge and what the President want us to do to direct our attention to the future.

There is no question that the great part of the money must be directed towards antiterrorism, and antiterrorism law enforcement in particular. The Postal Service very much needs a great deal of money.

Again, I want to sidetrack. There are major issues involved in where we are going now that have to be addressed by legislative committees. For instance, the Postal Service told us they had lost over $6 billion and they wanted assistance. When we examined it, we agreed we should provide some additional money. But we have to have some basic consideration of the question of how much of that loss should be paid by the taxpayers of the United States and how much should be borne by the ratepayers of the Postal Service, an independent entity that is not really financed by the Federal Government anymore, except in connection with disaster concepts. It may be that we will have to change that paradigm. It may be that we should help pay for some of the newer equipment that the Postal Service needs in order to prevent future disasters such as we had in the handling of the anthrax letters by Postal Service employees.

We also have to urge them to take steps to modernize so the system itself does not expose employees to contamination by substances such as that sent through the mail. We need to have an inspection system. And we need to have a system of treating the mail so it cannot carry these infectious diseases.

What I am saying is, if you examine the amendment I presented as an amendment for the Senate to speak out, and say to the administration that we have different priorities than have been presented to us before, we funded them through at least the first quarter of the calendar year 2002. We, of course, have to go to conference with the House and meet them in any event, but I think any fair reading of this amendment would say this is enough additional money through the use of the $20 billion to meet these priorities of the Congress, and we can await the request of the President for additional money and at that time be part of the process to meet the needs of the future as the country changes.

That would be my last comment to the Senate. We have a great many problems that come from the realization we are now exposed to different types of disasters. The disaster act that is in place was primarily passed at the time when we addressed natural disasters. It is the Stafford Act.

The Stafford Act provides that the Federal taxpayer will replace facilities owned by public entities that were destroyed because of the disasters such as we saw in New York. It assists local communities in replacing streets and

docks, or whatever, in community-owned utilities, but it doesn't replace privately owned utilities. It doesn't replace privately owned facilities that went down with the public facilities. Clearly, it doesn't even cover the publicly owned building that went up 104 stories. We don't know.

We know we have to address that. That is not something we ought to address as appropriators. This should be addressed by the legislative committees in the Congress responding to legislative solutions that set the new guidelines for how we handle disasters caused by terrorism.

I say to the Senate that I think Senator BYRD has stepped forward and offered us a solution to some of those problems by funding them now. But I think the Congress should be involved in making those decisions as to what we replace.

Should we replace all of the firetrucks in the country? Should we replace only those that come in and qualify for the grants? I do not know. I pointed out in committee that we have some of the oldest firetrucks in the Nation operating in Alaska villages. They were given to those villages at the end of World War II, and they have never been able to replace them.

But the intent is to replace those facilities that were destroyed by the disaster or, because of the disaster, have become inoperable. There are a couple, by the way, that were destroyed by the fire itself.

I believe we need to have decisions on a bipartisan basis as to how to solve those problems, and to put the money up now would not solve the problem. It would create a greater problem of having stepped down the road to say we will pay it if anyone comes forward and wants a new fire engine. There is not enough money in Senator BYRD's bill to replace all the firetrucks in the country. I am sure he would agree.

On the other hand, we all agree there should be some help for communities to modernize their facilities to respond to terrorist attacks, and to respond to acts of terrorism of any kind.

I have to confess that this Senator believes the bioterrorism, cyberterrorism, and food security problems are of the highest priority. I think the great problem is we need to be able to detect substances that are currently undetectable. One physician told me we were lucky that the anthrax attack was the first attack because anthrax is detectable and it is treatable.

There are substances that we know exist out there that are not detectable, that are not treatable, and they are not curable. We need to have research to find out how we can detect them and how we can manage them once they are detected.

We started down that road in the Defense bill itself. There is $100 million in there for the Department of Defense to continue its studies, and expand them in those two areas of detection of these substances currently undetectable, and how to treat them once detected.

Freon disease, for instance, is one of the leading examples of that. That is the manifestation of mad cow disease in human beings. We know from the experience in Britain that it is not only undetectable, but even the people who carry it may not know it for several years before it manifests itself in the brain of a human being. Once it does, if it comes in contact with any utensils in any facility, those utensils and facilities must be destroyed. There is no way to know what portion of them are uncontaminated. You must destroy everything that comes in contact with it.

That is why much of the great disaster took place in England in the past. We should join the international effort in that regard. Our bill starts us down that line.

I have spoken longer than I intended to speak. But let me now address the problem we face.

There are people on our side of the aisle who prepared a chart of the problems that this bill faces in terms of points of order. Senator BYRD's two provisions that would add the emergency money in division C of this bill are subject to points of order. They could be waived by 60 votes. The basic bill itself that came over from the House to the Senate is subject to a point of order. The House waived that point of order. We, similarly, could waive it, or we could ignore it here.

There is also the point of order that comes out of the 1996 Budget Control Act which imposed a limit upon us of the amount of money we could spend in the year 2002. Since the year 1999, that has been waived to a certain extent, but we, through that process, came to a balanced budget. I thought we did a very good job. The balanced budget now is disappearing because of the semicollapse of our economy through the recession and our ability to recover from the terrorist acts and prevent further ones.

What I am saying right now is we have to waive the Budget Control Act; in effect, lift the caps. We have done that in section C of this bill. Senator BYRD's version puts it right in the bill. If we vote that, that lifts those caps.

But there is at least three, maybe four other points of order involved here that once we get into, if we are divided on a partisan basis—it looks as if we might be—there is no way out.

I have offered this compromise for the Senate itself to speak out and say, let us settle this now and give the administration enough money to do what we think they should do through the first part of next year. And let us come back and respond to the President's request for a supplemental when we get back here next year.

Mr. President, I am not the Parliamentarian my friend is, but I can say, from my study of this bill, there is no way out if we have a point of order and a motion to waive and that motion is not carried. It does not appear that any of those points of order would be waived by the Senate, according to my understanding of the situation now.

My amendment takes us around those. My amendment says, let's set aside the $15 billion. We deal with about half of it in the $20 billion, and we move on to next year and the request from the President, and we do not have this collision. And we also—I am back where I started—do not leave the impression that a Senate that wants to provide bipartisan support to the Commander in Chief at a time of war is insisting upon doing what he says he does not want us to do.

I do not argue with my friend from West Virginia at all about the items he says must be covered sometime in connection with the recovery from this disaster. On how far we go on some of them we might have disagreement, such as firetrucks or what is covered in public facilities and what not. But the necessity for more money than the $40 billion is now apparent to everybody, even from the comments Governor Ridge has made as head of our home defense organization.

So I say to my friend once again, I am sad to be in this position. I really am because the Senator knows—and we worked on some of these figures—I believe the needs are there. And I believe the needs will have to be met sometime in the future. But I would rather give the money now to initiate meeting those needs and determine the extent to which we will meet the needs, and which we will actually want to meet, and which we will set aside and say are the responsibility of ratepayers or local governments or States.

My friend from Hawaii and I are from the generation of which President Kennedy was a part. As I sat here this afternoon, I was thinking about his comment at his first inauguration: Ask not what your country can do for you. Ask what you can do for your country.

If the things we worry about today would be worried about by every American, if every American would really take on the job of watching for those erratic people who are part of a conspiracy plot, if every American would come forth and assist the Government, volunteer to provide help to people who need help now, our job, using the taxpayers' money, would be substantially reduced. I think that will come as we, more and more, live up to our current slogan that we stand united.

I would prefer to see the Senate stand united and adopt my amendment, move on this bill, and take it to conference. We will be in conference Monday if this amendment passes. We will still be arguing about points of order next Friday if it does not.

I hope I have offered an honorable solution to the conundrum I see the Senate facing. I plead with the Senate to act in a bipartisan way and to tell the President: There are some priorities we want you to follow. Follow them within the first $20 billion, if you disagree with the $15 billion that Senator BYRD

seeks—which he does; we know he does—but, meanwhile, be assured when we come back next year, we are going to make certain that the supplemental that is requested will cover the needs of the country with regard to protection against terrorism.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I commend the Senator from Alaska for the compromise amendment which he has proposed, I commend the Senator from West Virginia for all he has done to focus attention on the important problems of the nation on homeland security, and I admire his stamina on the presentation of a very extensive floor statement.

I support and cosponsor the Stevens amendment. I divide my reasons into three categories: First, I believe there is sufficient funding to take care of the homeland security needs of America. Second, I think it is very important there be unity between the Congress and the President now as we fight the war against terrorism and have a major aspect of that war on homeland security. Third, I think it is very important the Senate act without having a stalemate and a gridlock, which is where we will be heading if we do not find a compromise, such as the compromise proposed by Senator STEVENS.

The reason there would be a deadlock is that for Senator BYRD's proposal to be adopted by the Senate, there will have to be 60 votes. I believe there is agreement there are not 60 votes present to have Senator BYRD's proposal passed by the Senate. Then the sequence which would follow would be virtually interminable.

We are facing a situation where it is now December 6. Who would have thought we would be here this late with all the expectations of finishing at least by the end of October or before Thanksgiving? However, here we are. We now face a continuing resolution which is going to run until a week from tomorrow, the 14th. Beyond that, there will be a continuing resolution until January 3, if we do not resolve this issue and the matter of the stimulus package.

These important items on homeland security should be advanced with the necessary funding on an appropriations bill, which could go through the conference and get to the President's desk next week so these important problems can be addressed.

Most fundamentally, the substitute bill proposed by Senator STEVENS provides the necessary funding. The subcommittee, which I had chaired for 6½ years and of which I am now the ranking member, has the appropriations responsibility for the Department of Health and Human Services. Senator HARKIN, who is now the chairman, and I moved ahead very promptly to address these bioterrorism threats.

Senator HARKIN and I have worked on a bipartisan basis on that subcommittee, I think, to the benefit of the country. I found a long time ago in my Senate service, if you want to get something done in Washington, you have to be willing to cross party lines. Senator HARKIN and I have done that. We have held a series of hearings on these issues to find out what is necessary for funding on bioterrorism. We had our first hearing on October 3, our second hearing on October 23, and our third hearing on November 29.

In the hearing on October 3, the Secretary of Health and Human Services testified that he believed we were able to handle all of the problems of bioterrorism in America. He had made a statement on ''60 Minutes'' to that effect. A number of us raised questions—that we really were not at that point yet, and that it was not helpful to make such a statement.

Senator BYRD, who attended the hearing, in a very direct and emphatic way, threw up his arms and said, ''I do not believe you.'' From that session we have moved ahead to push the Department of Health and Human Services to find ways to provide for antibiotics on anthrax. The Secretary signed the contract to provide Cipro. Then we had the hearing on October 23 and the issue was raised about where we stood on smallpox. The experts from the Centers for Disease Control and the National Institutes of Health said we should not be prepared to inoculate Americans, that we had 15 million smallpox vaccinations, and that those vaccinations could be diluted 5 times to 75 million.

In an exchange I had with Dr. Fauci of NIH, the discussion focused on whether it was the Government's responsibility to have sufficient vaccines so that people could make the choice themselves. I asked Dr. Fauci what the risk factor was. He said it was one to six out of a million.

I said considering that smallpox had failed, my preference would be to see my grandchildren vaccinated. Before we finished the discussion, Dr. Fauci agreed that he would like to see his grandchildren vaccinated.

The point is that as a result—I think fairly stated, as a result of this press—the Secretary of Health and Human Services has entered into contracts which will provide enough vaccines to take care of almost all of America, and not years down the line but by next September, so that we have moved ahead.

Then, in our hearing on October 3, Senator HARKIN and I pressed the Centers for Disease Control to give us a list of all the bioterrorist threats and to tell us what it would cost to meet the bioterrorist threats. And as usual, there was problems with the CDC getting clearance from HHS and getting clearance from OMB. By the time you work through the alphabet soup in Washington, it is very difficult to get anything done. However, we finally found out. When they testified on November 29, they testified in a very careful way to say that it was not an administration request, but it was their professional judgment as to what was necessary to take care of our bioterrorist threats.

As a result of what Senator BYRD did in his questioning of Secretary Thompson and what Senator STEVENS did—even though they are the chairman and ranking member of the full committee, they attended these hearings—we have been able to push up the funding far from what the administration requested, which was $1,445,000,000, so that we now have, under Senator STEVENS' amendment, $2,300,000,000.

When you take the $338 million which is now in the bill for Health and Human Services, the total funding comes to $2,638,000,000, which I believe to be adequate.

When a group of Senators met with the President in his living quarters about 10 days ago, we had a conversation about bioterrorism. There was a discussion as to a downpayment. I made the point that we could not deal with a downpayment, that when there was talk about putting this in next year's budget, it wasn't right. Simply stated, that was too late.

I do not speak for the President. I am a Senator and work under the separation of powers. However, I had the sense that the President was sympathetic to the view, although I explicitly say he did not say so.

We are giving the President more money than he had asked for, but I believe he will sign the bill with the amendment offered by Senator STEVENS.

We face a very difficult time internationally, as everyone knows. The terrorist attack on the United States on September 11 was the most brutal, inhumane, barbaric act in human history, sending airplanes loaded with fuel as deadly missiles into the World Trade Center in New York killing thousands of people. Also, a plane crashed into the Pentagon killing more Americans, hundreds more. I believe the plane was headed to the White House. That plane's wings were perpendicular. This plane did not sink to crash into the Pentagon. That plane crashed into the Pentagon because it could not go any further. It was on a direct line for the White House.

The plane which crashed in Somerset County, PA, I believe, was headed for the United States Capitol. Senator SANTORUM and I visited the crash site, and no one will ever know for sure, but we do know from cellular phone conversations that passengers on that plane fought with the terrorists and brought down the plane.

There have been three alerts, and there is no doubt of the tremendous concern in America that there be adequate funding for homeland security. I believe the bill, the substitute which Senator STEVENS has offered, gets that job done.

There is the bioterrorism funding of $2,300,000,000, which, when added to the existing $338 million, brings the figure

to $2,638,000,000. There is funding for New York, since the commitment was made by the Congress.

There is funding for the FBI, Immigration and Naturalization Service, and the U.S. Marshals Service; for security for nuclear facilities; for additional security for the legislative branch, the Coast Guard, the Federal Aviation Administration, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, and the U.S. Customs Service; and food security; and on and on and on—postal security, cybersecurity programs, etc.

Right now, the President of the United States has provided much needed leadership for the free world. The President has said he will veto the bill if it has the extra $15 billion in it. I think it would be calamitous if the Congress of the United States submitted a bill to the President in the face of that expressed veto threat, and then the President vetoed it. There is no doubt about his determination. I saw blood in his eyes when he said that to a group of visiting Senators.

It would be a sign of disunity between the President and the Congress, which would have a devastating effect on our war effort against terrorism. It simply ought not to happen. In my 21 years here, I have been party to a lot of conferences. When we have had a threat from the President for a veto, we acknowledge that there is time for compromise.

My distinguished colleague, Senator STEVENS, has given me the audible to abbreviate, so I shall do that, although there is quite a bit more I would like to say. I will conclude with a comment about the desirability of not having gridlock in the Senate.

When the stimulus package came up, it was a party-line vote. I think America is sick and tired of bickering on party lines and on partisanship. I believe that if we divide on party lines again, it will be bad for this institution and bad for the war on terrorism and bad for the funding which we need now to fight the war against bioterrorism.

It is my hope that we will find a bipartisan resolution here. I concede it is not quite as much money, but the President is the leader. He has asked for an opportunity to present to Congress the funding which he and his Director of Homeland Security believe to be adequate. The Congress has rejected the notion of waiting until next year. I believe the President will respect the accommodation, the compromise which we have made. It is my hope that we can come together.

There is legislative anarchy and legislative chaos if the Stevens compromise amendment is not enacted and if, instead, we are left to the points of order where nothing will be accomplished, and we will be returning here in January without having completed our work and without having appropriated funds necessary now. These funds can be made available next week with a bill signed by the President if we come together on a bipartisan basis and adopt the Stevens compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my desire to start the process of having some of the votes that I have indicated must be encountered.

It would be my intention to now raise a point of order against the two emergency designations set out in division C of the committee-reported amendment as prepared by Senator BYRD.

Mr. SPECTER. Will the Senator yield for a question? Does the Senator not intend to press for a vote on the Stevens amendment first?

Mr. STEVENS. It has been requested we now proceed with the point of order and then proceed with the vote on my amendment following that, if it is possible to do so. There is still other debate to be heard, I think, on my amendment.

Mr. SPECTER. I thank the Chair.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SCHUMER. Will the Senator yield?

Mr. STEVENS. I will yield for a parliamentary inquiry, provided I do not lose my right to the floor to make my point of order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa seeks recognition, and the Senator from New York seeks recognition. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: The Senator would like to know exactly what the situation is at this time. This Senator has been waiting to speak on the amendment offered by Senator Stevens. What is the present situation on the floor?

The PRESIDING OFFICER. At the present time, there is a first-degree amendment offered by the Senator from Alaska to the committee substitute reported with the bill.

Mr. STEVENS. Mr. President, as I understand it, if I set that aside and make the point of order and have the vote on that, then we will come back to my amendment after that vote.

Mr. SCHUMER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Alaska yield to the Senator from New York?

Mr. STEVENS. I yield for a parliamentary inquiry.

Mr. SCHUMER. Will the good Senator from Alaska answer two questions? Are they two separate points of order or one point of order against both provisions?

Mr. STEVENS. The way my motion is worded, I am raising a point of order against the two emergency designations in division C, and I am trying to get those two issues settled at one time.

Mr. SCHUMER. I presume that point of order is debatable.

Mr. STEVENS. The motion to waive is debatable.

The PRESIDING OFFICER. The point of order is not debatable. The motion to waive is debatable.

Mr. SCHUMER. I thank the Senator.

Mr. STEVENS. I will be happy to yield to the distinguished chairman for a question.

Mr. BYRD. Might we have a quorum call?

Mr. STEVENS. May we have a quorum call and I will regain the floor when we come back?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Under that circumstance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to yield to Senator BYRD so he might make a response to my statement on my amendment and that I regain the floor after Senator BYRD has finished his statement on my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not envy myself for being in the position in which I find myself. Senator STEVENS is a Senator who can say no and make you like it—almost. He is always so gracious. I have heard a lot about his renowned temper. I have seen it at work, but he does not lose his temper. He uses his temper and is always, as I have witnessed over several decades, one of the most reasonable individuals. So I do not like to be in a position of being opposite to Senator Stevens.

While discussions are going on, let me attempt to point out some flaws of the amendment by Mr. STEVENS. The substitute amendment reduces the amount of money available to the Office of Domestic Preparedness, ODP, to $362 million, a $138 million reduction. That is a 39-percent reduction from the bill, as reported, for State and local law enforcement antiterrorism equipment and training.

The Office of Domestic Preparedness estimates there is currently no State that is adequately equipped to respond to an incident involving a weapon of mass destruction at the State or local level.

Texas, identified as one of the best prepared States, has conducted a study that shows that $159 million in equipment would be needed to bring the State to the minimum level needed to adequately respond to a terrorist incident. In fact, ODP, the Office of Domestic Preparedness, estimates funds needed to bring the Nation's State and local governments up to minimum standards

could well exceed $2 billion in fiscal year 2002 alone. Thus, the reduction proposed by the substitute amendment is equivalent to the level of funding needed to bring Texas up to minimum standards.

There are currently over 9 million first responders in the United States who would be called upon to respond to a terrorist incident. To date, the ODP has been provided with training funds that have allowed them to train only 80,000 of the 9 million first responders nationwide.

The bill as reported attempted to more than double the population trained to date. The substitute amendment's reduction in funding jeopardizes our efforts to provide the individuals on the front lines with the training necessary to protect their own lives, as well as the lives of victims.

Furthermore, the amendment by Mr. STEVENS reduces the $300 million in the committee bill for FEMA for gathering grants by $10 million; $300 million in the committee bill is reduced by $10 million.

As to Federal antiterrorism law enforcement, the substitute amendment cuts $100 million in the homeland security bill to cover the costs of the FBI's investigation of the terrorist attacks on September 11. These funds are critical to the investigation of the attacks from September 11 and the anthrax attacks.

The substitute amendment cuts $25 million from the homeland security bill for the FBI's Trilogy, the computer modernization program. This $25 million will significantly accelerate the completion of Trilogy.

The September 11 attacks have exposed the vulnerability in the integration of the FBI's computer system. While FBI agents in the field are working around the clock collecting evidence and clues, their reliance on paper files leaves their work fragmented and uncoordinated. It will only be when FBI agents are linked by the Internet to one another and the universe of law enforcement agencies, that the FBI will actually know what it and others know about terrorism, espionage, or organized crime.

Without these additional funds, deployment of Trilogy may be delayed and these unacceptable problems will continue to exist.

The substitute amendment cuts $25 million included in the Homeland Security bill for counterterrorism equipment and supplies. These funds are essential for the FBI to have the resources they need to properly investigate the terrorist attacks on September 11, 2001 and the following anthrax attacks.

With reference to Border Security the substitute amendment cuts over $270 million in funding for the Customs Service. This will prevent Customs from hiring the necessary inspectors and agents to protect our borders.

On Monday, the Attorney General essentially called out the National Guard to assist the Border Patrol and INS in their duties on the northern border. Treasury has not taken the same steps, yet has pulled personnel from the overworked posts on the Southwest border to staff one-person posts on the northern border. They even eliminated funding for added inspectors on the Southwest border.

This delay places $7.5 billion in international commerce at risk daily; $1.3 billion of which crosses the northern border. Instead of providing additional people to protect our borders, it will continue our short-sighted reliance on orange rubber cones to stop terrorists.

The substitute amendment cuts $300 million for INS construction that is funded in the homeland security bill even though there is an ever-growing overcrowding crisis at the INS.

For example:

Of 85 outposts across 9 sectors on the southwest border, 63 are overcrowded, some grossly so. The worst, a station in Mercedes, TX, was designed for 13 agents but currently houses 142, more than 1,000 percent its rated capacity.

In total, there are 10,150 agents working in office space designed for a capacity of 5,831 on the southern border. There are 525 agents working in office space designed for a capacity of 469 on the northern border.

The substitute amendment makes the same mistake made with the southern border over the past several years. We are building up agents—300 inspectors and 100 Border Patrol agents—but we are not providing the necessary funding to address necessary space requirements for them to do their job efficiently and professionally.

The risks to the safety of agents cannot be overemphasized and appalling work conditions will do nothing but contribute to the Border Patrol's soaring attrition rate.

This $300,000,000 is only the beginning to truly address the enormous backlog with INS construction projects.

Now, we have heard a lot about airport security.

The bill reported by the committee included $200 million to assist the neediest airports in meeting the costs of the dozens of new safety directives issued by the FAA since September 11. The Stevens amendment cuts that figure in half.

Senators should ask their small- and medium-sized airports whether all this money is needed. Airport revenues are dropping drastically at the same time as the airports are being required to triple their law enforcement expenditures and security personnel.

The Stevens amendment actually cuts the President's request to better secure cockpit doors by more than 20 percent.

Senators should not be confused by recent announcements that the airlines have reinforced all their aircraft. All the airlines have done to date is install a temporary metal bar and a cheap deadbolt.

The money in the President's request for FAA operations is to install the next generation of truly impenetrable cockpit doors. The Stevens amendment cuts it by more than 20 percent.

As for the nuclear power plants, the amendment by Mr. STEVENS proposal cuts $86 million from the $285 million provided for enhanced protection of our Nation's nuclear weapons plants and laboratories.

The amendment by Mr. STEVENS also cuts $131 million from the $286 million provided for the acquisition and safeguarding of fissile nuclear material from Russia and states of the former Soviet Union.

The non-proliferation programs at the Department of Energy are the cornerstone of our Nation's effort to keep nuclear material out of the hands of terrorists.

The Stevens proposal cuts all funding—$139 million—for enhanced security at Army Corps of Engineers owned-and-operated facilities: ports, dams, and flood control projects nationwide.

Additionally, the proposal cuts all funding—$30.259 million—for increased security at Bureau of Reclamation facilities.

It funds only the GSA request for security of Federal buildings in New York City. It fails to provide similar security for other Federal buildings elsewhere in the country.

How about U.S. port security.

The Stevens amendment then goes further by eliminating two-thirds of the funding for marine safety teams to permanently protect our ports.

Under the Stevens amendment, there will only be one such team to protect all the ports on the East Coast and one team to protect all the ports on the West Coast.

The substitute amendment reduces funding for the port security initiative through the Maritime Administration by $12 million.

These reductions would eliminate funding to assist local ports in their efforts to purchase security equipment such as fences, surveillance cameras, and barriers.

Effective physical security and access control in seaports is fundamental to deterring and preventing potential threats to seaport operations, and cargo shipments.

Securing entry points, open storage areas, and warehouses throughout the seaports, and controlling the movements of trucks transporting cargo through the seaport are all important requirements that should be implemented. They will not be implemented under the substitute amendment.

United States seaports conduct over 95 percent of United States overseas trade. Seaport terrorism could pose a significant threat to the ability of the United States to pursue its national security objectives.

The amendment by my friend would cut the President's request for defense programs by $2.3 billion.

Let me say that again. The substitute amendment by Mr. Stevens

would cut the President's request for defense programs by $2.3 billion. While the amendment has no detail, the cut would need to come from either classified programs or force protection programs designed to improve security for our forces around the world.

As to the Postal Service, my friend's amendment would cut $300 million from the $875 million in my proposal to sanitize the mail, protect postal employees, rebuild the facilities lost in New York City. The U.S. Postal Service identified $1.1 billion in unfunded needs. This proposal cuts that amount in half.

My friend's amendment to my amendment cuts $29 million from the EPA for bioterrorism response and investigation teams. This would undercut EPA's ability to respond to, investigate, and clean up after acts of bioterrorism.

My friend's amendment does this. The President promised New Yorkers they would get $20 billion to help them recover from the September 11 attacks. My amendment fulfills the President's promise. My amendment fulfills our commitment. I did not go to New York, but I saw enough on television. I did not go up there and make any promises. I stayed here and made my promise, and I am living up to that promise.

So the substitute, I am sorry to say, cuts funds for New York and other communities directly impacted by the attacks by over $9.5 billion. Here are some examples:

FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices and provides assistance to individuals for housing, burial expenses, and relocation assistance, is cut—cut—by $8.6 billion.

And $100 million for security in Amtrak tunnels is eliminated. Eliminated.

Funding of $100 million for improving security in the New York and New Jersey subways is eliminated by my friend's amendment.

As to New York/New Jersey ferry improvements, $100 million for critical expansion of interstate ferry service between New York and New Jersey is eliminated by my friend's amendment. Prior to the September 11 attacks, 67,000 daily commuters used the PATH transit service that was destroyed.

Those commuters are trying to get to our Nation's financial center in lower Manhattan. The communities in the New York region have been piecing together temporary ferry and train service using facilities that are not even safe to transport these commuters. The train riders at alternative train stops are so crowded, the police authorities are concerned with passengers being pushed off the platform onto the tracks. Yet the amendment proposed by Mr. STEVENS eliminates all this funding for transit and ferry assistance in that region.

And $140 million is eliminated to reimburse the hospitals in New York that provided critical care on September 11 and the weeks and months that followed.

Mr. President, $175 million is eliminated that would help New York process workers compensation claims for the victims of the September 11 attacks.

As to Federal facilities, $16 million is eliminated for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration and the National Labor Relations Board.

Ten million dollars is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

Hear me. Hear me, Governor of New York Pataki. He came to my office. He sat down at the table across from me, and he made his plea for help. I am trying to help him. Yet $10 million is eliminated that would help New York schools provide mental health services to the children of the victims of the World Trade Center bombing.

The Stevens compromise is $174.4 million less than the Senate committee bill for the District of Columbia.

I will soon close my remarks. Before doing so, let me call attention to a cut in bioterrorism activities by over $1 billion. The amendment by my friend, Mr. STEVENS, would cut bioterrorism activities by $1.025 billion. It would cut in half funds from $1.15 billion to $500 million for upgrading our State and local public health infrastructure funds, desperately needed to help upgrade State and local lab capacity, to enhance surveillance activities, support local planning for emergencies, and improve local communications systems.

Recent events have made it clear that the State and local public health departments have been allowed to deteriorate. The head of the CDC, Mr. Jeffrey Koplan, testified only last week that at least—at least—$1 billion is needed not next spring, not next summer, not in the next supplemental, but now, immediately, to begin to upgrade our State and local health departments. That is the head of the CDC talking.

It cuts all funds provided in our proposal for the deployment of the smallpox vaccine across the country. This vaccine does no good if it is all at the CDC, with no plans for distribution if an emergency occurs.

He cuts funding for CDC capacity improvements by $57 million. Recently the Los Angeles Times reported that four men in Georgia were discovered to have contracted the West Nile virus 3 months earlier. The delay in the diagnosis was due to the large backups at the CDC labs. This cannot continue.

The people of the Nation cry out for help. They are concerned about the safety of their children, the safety of their wives, their mothers, their husbands, their fathers. They are concerned about the possible loss of life that might be visited upon them tonight, this very night.

So I had three goals in the committee bill. Let me repeat them.

One goal is to fully fund the President's request for defense—he would get every penny—$21 billion for defense. Nobody can say that this impedes or impinges upon the needs for defense.

Second, my proposal fulfills the promise of $20 billion for New York.

Also, my package responds to the vulnerabilities in our homeland defense.

Lastly—I would much prefer to be on the side of my friend than to be opposite him—my friend's substitute does not meet any of these objectives.

I yield the floor. I thank my friend for his courtesies.

AMENDMENT NO. 2243, WITHDRAWN

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I shall read and reconsider the substitute based upon the Senator's detailed objections.

I withdraw my amendment.

Pursuant to section 205 of H. Con. Res. 290, the fiscal year 2001 concurrent resolution on the budget, I raise a point of order against the two emergency designations set out in provision C of the committee-reported amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Madam President, I move to waive section 205 of H. Con. Res. 290 of the 106th Congress for the consideration of the emergency designation on page 397, and I move to waive section 205 of H. Con. Res. 290, 106th Congress, for the consideration of the emergency designation on page 398, and I ask that the motion be divided.

The PRESIDING OFFICER. The Senator has the right to divide the motion.

Mr. BYRD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

This will be on the first division.

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there has been a vote ordered on both motions to waive; is that right?

The PRESIDING OFFICER. Only the first division is pending at this time.

Mr. REID. I ask for the yeas and nays on the second.

The PRESIDING OFFICER. Is there objection?

Without objection, it is the order to so request.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that there be 60 minutes for debate with respect to the motions to waive, with the time equally divided and controlled between Senator BYRD and Senator STEVENS or their designees; that upon the use or yielding back of time, without intervening action, the Senate proceed to vote with respect to the motions to waive. I further ask unanimous consent that—I have checked with Senator BYRD on this—Senator SCHUMER and Senator CLINTON each be recognized for 5 minutes out of the time of Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield 5 minutes to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from West Virginia for his leadership. I know he will address the homeland security part of the debate so well, I will talk about the New York part of the debate, as I know my colleague, Senator CLINTON, will.

We are about to experience one of the most incomprehensible and inexplicably absurd moments in the entire history of this body. We are going to debate and vote upon whether what happened in New York on September 11 was an emergency. Think about it. We are debating whether what happened in New York on September 11 is an emergency. Some are saying it is not an emergency. Ask the thousands of families who lost loved ones as the Twin Towers collapsed. Ask the firefighters and police officers, emergency rescue workers who worked so valiantly, many giving their lives to rescue those in the Twin Towers. Ask the hospitals that extended themselves in ways they never had to before. Ask our mayor, a hero in America. Ask our Governor. If there was ever an emergency that affected the United States and certainly affected New York, it was this. Yet now we are debating whether this was an emergency.

New York desperately needs the money that Senator BYRD has allocated in his bill. When Senator CLINTON and I visited the White House and the President committed to help us with $20 billion, it was an act of generosity. It was an act of understanding that you don't divide America in a time of need. It was an act that said we are all one, and when one part of America is wounded and hurt and crying, all of America comes to its aid.

The proposal by the Senator from Alaska puts less money in for New York than either the President did when he committed to us or even that the President argued for in the House bill. That is not a way to heal our country. That is not a way to restore our Nation's greatest city. That is not a fair thing to do.

Every day we learn of new needs and new hurt in New York. The amount of money proposed in this bill helps us begin to recover. It helps the families who have lost loved ones. It helps the office workers who have lost their jobs. It helps the small businesses that are about to go under because they don't have anybody there to buy their wares. It helps the large businesses that lost so much space, 20 million square feet of space. It helps us restore our transportation system so damaged.

To now say that we don't have an emergency is almost as if to say what happened on December 7, 1941, was not an emergency. What kind of world are we living in? How can we contort ourselves in a political knot and deny what is obvious to everyone on this planet, American and otherwise? In an effort to deny New York badly needed funds, we are now attempting to vote away an emergency designation.

In my years here in the Senate, I have voted for emergencies such as earthquakes and floods. I have voted for all kinds of money for such. Now an emergency has struck my city, a horrible, fiendish emergency caused by diabolical people from halfway around the globe.

America, my friends in the Senate, we need your help. We desperately need your help. Please, do not turn your back on us. Do not turn your back on us in our hour of need. Bring America together. Unite and help us heal by supporting Senator BYRD's proposal, by voting against Senator STEVENS', on its face—with all due respect—absurd proposal that New York is not in an emergency situation.

If New York and if all of America—because the attack on New York was an attack on America—ever needed you, it is now. Do not let other types of considerations get in the way.

I yield the floor.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I rise to once again remind us what an emergency looks like. I have, over the past 25 years, visited the sites of tornadoes, hurricanes, floods, earthquakes, the Oklahoma City bombing. I have never seen anything in my life like what I saw in New York City on September 11. The television and the pictures didn't do it justice. I had to see it with my own eyes on September 12.

I rise to join my colleague who has, with me and so many others, been working to recover from this, this picture of devastation and destruction. I remind my colleagues of those early pictures of the firefighters, the police officers, and the emergency response teams coming out of the dust, the black soot that covered them from head to toe. There were a lot of very kind words spoken, a lot of applause and cheers for our soldiers on the front line at home who ran toward danger and saved countless lives.

It is hard to imagine that we are having this debate. It is especially hard when we look back, as I did, at how this body responded to the emergencies that were not man-made but naturally occurring, and what happened in Oklahoma City.

We know we are going to have a long struggle ahead to recover and rebuild. New York is taking on that obligation and challenge. But we also know we cannot do it without America's help.

This is America represented in this Chamber tonight. When New York City was attacked, America was attacked. I cannot imagine us ever turning our faces away from this. In fact, we did not. We immediately moved to appropriate money to be spent for New York. Right now, we are fighting for the emergency designation that will put that money in the pipeline, that will make it available.

Why is that important? It is important because in every disaster—there are some former Governors in this body, and I have spoken to a few of them tonight—when States were flooded, when the hurricanes came, when the tornadoes came, they wanted that money as soon as possible to begin to put it to work, to start letting the contracts, to start paying back the overtime so they did not have to run in the red, as we are having to do throughout New York.

I went back and looked at how fast money got out in other emergencies compared to the amount of money that was eventually delivered.

In the Midwest floods, within 3 to 4 months more than 40 percent of the dollars from the Federal Government had been appropriated. With the Northridge earthquake, more than 30 percent of the dollars had been appropriated within 26 days. Ninety-nine days after the Oklahoma City bombing, more than 40 percent of the money that went to help the people of Oklahoma had been appropriated. Eighty-five days after the attacks, we are fighting over whether or not what happened in New York on September 11 was an emergency.

I remember what people said in the immediate aftermath. We were given enormous support.

''We will rebuild New York City,'' said President Bush on September 21.

''We will come back to New York again to see this town rise from the ashes that we saw today,'' Speaker HASTERT.

''We are here to commit to the people of New York City and New York, regardless of the region of the country that we come from—and the entire

country is represented by this delegation—that we will stand with you.'' Senator LOTT.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. CLINTON. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Madam President, on behalf of not just New York—let's not look at it abstractly as just the big State and the big city that we are. I want everyone to picture the faces of those firefighters, police officers, and emergency workers, and then I want everyone to think about the widows and the orphans. Our country was invaded, and under the Constitution, we owe, as a nation, the protection and certainly the support of this body for which we are fighting tonight. I hope that what is an emergency will be voted as such this evening.

Thank you, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, I ask for 2 minutes.

Mr. BYRD. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise as chairman of the Senate Budget Committee to point out that while our Republican colleagues are opposing $15 billion to strengthen our defenses and to rebuild what has been destroyed in the sneak attack on this country—they argue that this will add deficits—at the very same time, they are proposing an economic stimulus package that adds $146 billion of deficits over the Democratic stimulus plan over the next 3 years, 10 times as much in deficits in their economic stimulus plan than the $15 billion that would be used to strengthen homeland security and to rebuild the devastation in New York. Something does not make sense.

In their stimulus package, they have $25 billion, as the New York Times pointed out this morning, that would simply go to help the biggest corporations in America avoid taxes altogether.

They argue: No, no, go slow, the President might veto. Nobody argued go slow when we counterattacked those who attacked America. Nobody argued that we ought to go slow when the President went to New York and promised to rebuild. This is not the time to go slow in protecting America and rebuilding that which has been destroyed. This is the time to act.

The greatest irony is I was informed last week by sources within the administration that they themselves are working on a $20 billion supplemental appropriations bill for early next year.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Madam President, we should not wait. We should act.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. How much time does the Senator from New Jersey wish?

Mr. TORRICELLI. Three minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Madam President, I thank the Senator from West Virginia for yielding the time.

There are moments when we are reminded why our fathers and mothers created this Union. This is one of those moments to provide for the common defense, to promote the general welfare.

All of America was attacked, but that attack fell most directly on the peoples of several States. The President of the United States has reminded us that in this new war, we are all soldiers. If that be the case, the obligation of this Senate is to provide resources for all the police officers, all the citizens, all the workers who are on the front lines.

The Senator from West Virginia has answered that call for my State, and I believe for the national interest. Since September 11, thousands and thousands of people are unable to get to their place of employment because the trains under the Hudson River were, in some instances, destroyed; businesses had to relocate and have had enormous economic disruptions. The Appropriations Committee has provided money to repair those trains, and $100 million for ferry service so businesses can continue to operate.

We are told that one of the greatest threats to our security in another terrorist attack is the tunnels under the Hudson River, identified as the primary threat in the country. The Appropriations Committee has provided $100 million to repair the tunnels for safety, for fire, for escape.

We are told that one of the greatest threats, from a previous threat from the al-Qaida organization, was to attack the tunnels for automobiles and bridges. Indeed, that attempt was foiled once before, but we remain vulnerable.

The Appropriations Committee has provided $81 million for security upgrades of the George Washington Bridge and the Lincoln Tunnel.

Finally, on this very day, we have this Senator's testimony about the vulnerability of millions of uninspected containers coming into this country on container ships from every corner of the Earth. The Appropriations Committee has provided $29 million for new security personnel and new boats for New York Harbor to ensure these ships are intercepted, and that these containers are inspected to assure the safety of our people.

President Bush is right. This country is at war. It is not a distant war. It may be fought in Afghanistan, but it began in New York and in Washington.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TORRICELLI. These are the resources in a very real way, just as real as in Afghanistan to win that fight to secure these people, and I am grateful to the Appropriations Committee for its commitment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, does the Senator from West Virginia need additional time now?

Mr. BYRD. I need some additional time. I was hoping the other side could use some of its time.

Mr. STEVENS. I will be happy to yield 10 minutes of our time to the Senator from West Virginia and shift it over to his control.

Let me briefly state the position of this Senator on the motion to waive. As I have stated, the President, as Commander in Chief in a time of war, has said he believes he has requested ample money to take him through to the time when he will submit, based on Governor Ridge's report to him, the moneys that are necessary to conduct the homeland defense for the United States. He has also said he believes we have now sufficient funds to pursue the war that is being conducted against global terrorism based on the moneys that have been presented in section A of this bill, and the additional moneys for defense in section B of this bill.

Those moneys are presented pursuant to the act of September 14, which specified that not less than $20 billion of the moneys involved would go to New York, Virginia, and Pennsylvania to help react to the events of September 11.

My amendment—I have withdrawn it now, but I will offer it again probably in the morning—does not change that law. Nothing in the proposal of the Senator from West Virginia changes the September 14 law, as I understand it. He seeks to add to it, but he does not change that, and that law guarantees $20 billion.

Now, I do not have my tie on to take on the Senator from New York as I might normally. That will be tomorrow probably, but right now let me say to the Senator from New York, no one knows disasters in the United States like Alaskans. We have an earthquake about every week. We have tidal waves. We have tornados, floods. We understand emergencies.

We have not said New York did not suffer an emergency. We have merely, by this point of order, said emergency money is not needed now to meet the needs of the people affected by September 11 because with this bill, we have put up a total of $40 billion, plus the moneys that are in the bill itself. They cannot even come near to be spent before we can get the next supplemental out.

I am informed that New York has only requested so far less than $5 billion of the money to which it is entitled.

I do not mind being a whipping boy. You play with the cards you are dealt. My role is to try to get this bill to conference. I want the bill enacted before Christmas. I think New York is better

off to have it enacted before Christmas. I do not think it can be enacted before Christmas if we have a situation where we have a veto of this bill. I do not think we should be challenging the President of the United States.

I remember standing in this Chamber as the chairman of the committee asking for money for the former President of the United States to conduct two wars against which I voted. I have always honored the request of the President of the United States with regard to defense and emergencies, too. I remember standing in the Chamber and asking for money to replace the money that the former President of the United States used under the Food and Forage Act to conduct activities in Kosovo and Bosnia, that I opposed.

This is no precedent. This is a procedure established to assure the Congress agrees with the designation of emergency in terms of spending. We are not saying there was not an emergency on September 11. Anyone who watched the television—and I did visit ground zero. God knows there was an emergency up there and one that will be ongoing, but New York is not going to be rebuilt before March of next year. The money in this bill, the $40 billion, cannot be spent before March of next year. There is no necessity for additional money now. There will be a necessity to respond to the President's request next spring. Therefore, I believe the motion to waive is not necessary, and I oppose it.

The PRESIDING OFFICER. Who seeks time?

Mr. BYRD. Does the other side wish to yield some time to themselves?

Mr. STEVENS. We yielded 10 minutes of our time to the Senator from West Virginia.

Mr. BYRD. I understand.

Mr. STEVENS. Does the Senator from Oklahoma seek time?

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Fourteen minutes remains for the minority; 24 for the majority.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, first I wish to compliment our colleagues for this debate, and particularly Senator STEVENS. It is not easy when one takes on the chairman of the Appropriations Committee. I have great respect for my friend and colleague from West Virginia. I do not happen to agree with him on this particular issue. I agree with him on a lot of issues. This is not one I agree with him on, and I will state why.

I have heard some colleagues imply if we do not support this, we are not in favor of New York, or we are not in favor of rebuilding, and I just totally disagree with that. I think every one of us wants to help New York, wants to help Virginia, wants to help our country, wants to provide for national security, wants to provide for a defense bill.

I am trying to look at where we are in regard to helping New York and helping our national defense. We have to have a bill that is going to be signed by the President of the United States.

I read the President's statement of policy, and it does not equivocate. It says if the final bill presented to the President exceeds either of the agreed-upon spending levels, the President will veto the bill—the spending levels of $686 billion that he agreed to. And I might mention he increased that spending level to get an agreement. He had an agreement with Members of Congress, Democrats, and Republicans. I might mention the Democrats in the House insisted he put it in writing. It was put in writing on October 2.

That agreement was for $686 billion in discretionary spending. That was for a growth level of over 7 percent. The President agreed with that. Subsequent to that, the President agreed to an emergency spending bill of $40 billion.

I might mention we were marking up the bill—I am sure my colleague from West Virginia remembers this—and the bill was $20 billion. At one time, some people were saying maybe it should be less than that, but it was at $20 billion. Then our colleagues from New York and the Governor and the mayor of New York prevailed upon the President to make the $20 billion $40 billion. So in one afternoon, in a period of hours, right before the very day we were passing the emergency assistance bill, it was $40 billion.

That bill was passed unanimously. It was done in a bipartisan fashion. We all agreed, let us make it $40 billion. We were basically saying let us work together on this. I questioned whether or not at that time it needed to be $40 billion. I was saying, why do we not do $20 billion now, and if we need another $20 billion, we will do it? But we all agreed, let us do $40 billion.

We had a significant discussion about how that first $20 billion would be controlled, and we agreed basically $10 billion at the President's discretion, the other $10 billion the President would submit his request to the appropriators and they would sign off on it. They had 15 days to do that.

Then we said the additional $20 billion would be subject to a separate appropriations bill, and that is what we have in the Department of Defense bill. Some people might be wondering why this is being done in the Defense bill in the first place. It did not have to be in Defense. We just said it will be in a subsequent bill. It could have been an independent bill or it could have been in an appropriations bill. So that is the $20 billion. The President agreed with that. Both parties agreed with that, and it was passed.

That is all we have agreed on. The President says that is enough for now. The President said he is willing to make whatever considerations are needed in the future. The President's letter also said the administration spent less than 16 percent of the $40 billion designated by Congress to respond to the September 11 attacks. Yet some people are saying let us make the $40 billion $55 billion, even though we have only spent 16 percent of the original $40 billion. I think that is moving a little aggressively, maybe a little too fast, and maybe not giving us a chance to figure out the cleanup costs.

Both Senator Stevens' bill and Senator BYRD's bill have a lot of money for FEMA. I do not know, and I do not know that anybody knows, how much FEMA is going to need for cleanup costs for Virginia and New York, but we are paying every bill that FEMA has been requested to pay.

I contacted the mayor's office in New York City and they said every single bill they have submitted to this administration has been paid within 5 days. That was from the mayor's office as recently as a few days ago. So if every bill has been paid, they are making good on their commitment.

Why not give the administration a chance to look at the total costs. Governor Ridge was appointed to be head of this task force. We give him enormous responsibility. Let him make recommendations. Then we will consider those recommendations. I am sure we will pass almost all of them. We may modify them. We have that right. To say we will preempt and move ahead, we are wasting our time. The President says he will veto it. I tell my friends, we have the vote to sustain the veto; why go through this exercise?

Finally, some have implied we are not doing anything for the victims in New York. This disaster happened September 11 and it is December 6 and we have not enacted legislation. Let me correct that. At least compare it to what we did in Oklahoma City. We had a disaster in Oklahoma City. It killed 169 people. That is not as bad as 3,000 or 4,000 but it is still pretty bad.

What did we do? For New York City, by the end of the week or hopefully by the end of next week, we will pass legislation that will say victims who were killed, their families will not have to pay any tax on income earned this year or the previous year. That is a benefit preserved primarily for the military. We will make that apply for the people who were killed as a result of the September 11 disaster. We never did that for the people in Oklahoma City 6 years ago, but we will do it in this case, and I strongly support it. Very good. That is positive.

Some of the families, the survivors of families were lobbying for that. I compliment them for that. We are going to deliver. That will be valued assistance. They will get back all the taxes they paid last year and all the taxes they paid this year. That will happen soon. They will not go through bureaucracy. That will happen. I am happy we can provide that assistance.

We have also already passed a victim's compensation fund and we have appointed a special master. The Attorney General appointed a special master who is trying to come up with an adequate compensation system for people

who lost a family member as a result of the disaster. That moved quickly. We never did that in Oklahoma City. Some people estimate they will receive large payments. I don't know. I think it has something to do with how much compensation they receive or how much they will receive from the insurance companies. That is very significant. Congress has already acted on that. Hopefully, checks will go out to the families and those in need of assistance will get that quickly.

It would be shortsighted to say we are not taking care of families. I think they have significant assistance through the Tax Code by this Congress, this year, and I think they will get something through the victim's compensation fund which Congress has already enacted. That should happen pretty quickly.

Congress has been moving. Maybe we don't move as fast as some think we should, but that is pretty quick. What about rebuilding New York City? Oklahoma City just had a dedication to rebuild the Murrah Building destroyed 6 years ago. They just had the groundbreaking today. Again, everybody is wanting to move full speed ahead, but use a little common sense. Work with Governor Ridge. Let him have some input on what is needed. Let the President of the United States have some input on what is needed. Let's work together in a bipartisan fashion to figure out what is needed, not one party saying this is what we will insist upon. Let's work together. We did it for the initial $40 billion. I think we can do it for the future. We can do it working with the administration. It will not happen in this bill, trying to jam $15 billion on the President, saying he will not sign it and we will sustain the veto. That will not happen.

I urge my colleagues to vote no on waiving the budget point of order. The budget point of order is well made. Let us work today. When we waive the budget, we should do it when we are working together. If we waive the budget and say budget rules don't apply, do it when we are all on the same bandwagon, when we are working together, not for partisan advantage trying to make some look as if we don't care about New York or care about fighting terrorism. That is false. Every Member serving, House and Senate, cares about New York and cares about fighting terrorism. I urge my colleagues to work together in a bipartisan fashion, work with the administration, work with Governor Ridge to come up with something mutually acceptable that will provide the Nation security and make sense economically and not break the bank at the same time.

I yield the floor and reserve the remainder of my time.

Mr. BYRD. How much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes forty-five seconds.

Mr. BYRD. I yield 3 minutes to the Senator from Iowa and I yield 2 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, we are talking about just another part of the defense of our country. If we think of what is happening in Afghanistan, if we found out our troops were ill-trained, that our radar was out of date, and they were short of ammunition, we would have hearings. We would call in the experts, we would listen to them, we would find out how much they needed to make sure our troops were trained, to make sure our radar worked, and to make sure they had enough ammunition, and we would supply it.

That is exactly what we did for this bill. We brought in the witnesses. We heard from the experts. We asked: What do we need to protect the people of this country in terms of a bioterrorist attack? That fell under the jurisdiction of the subcommittee which I chair. Senator SPECTER and I had four hearings. Senator STEVENS and Senator BYRD attended those hearings. We had good testimony. What they came up with was the expert judgment of what we needed to protect our people against a bioterrorist attack.

If I put it in military terms in terms of bioterrorism, our troops are ill-trained, our radar is out of date, and we don't have enough ammunition. For example, we had testimony that we needed to get our small pox vaccine manufactured and deployed. This bill includes $829 million to do that. The substitute amendment would take that down by $267 million. We would cut local and State public health preparedness by over $650 million. This is our radar system. These are the people, if an attack happens, who will pick it up immediately and keep it from spreading. We had $1.15 billion. The amendment, the substitute, only has $500 million. There are cuts for CDC for the lab capacity. These are things we need to protect our people.

We heard from the experts. We got their testimony. We made a judgment call as to what was needed to protect us from a bioterrorist attack. We had $3.9 billion—it was $3.3 billion for public health and $600 million in agriculture, for a total of $3.9. The substitute amendment only leaves $2.3 billion.

Just as we would not want to shortchange our troops in the field overseas, we don't want to shortchange the troops we have at home. Our public health officials, our local hospital administrators, the laboratories, the manufacturers of the small pox vaccine, make sure they have the equipment they need to protect our people.

Mr. STEVENS. I ask unanimous consent the time remaining be divided 25 minutes to the Senator from West Virginia and 5 minutes to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. REED. Madam President, I rise to support the efforts of our chairman, Chairman BYRD, on an extraordinary package that recognizes the reality we have to do more, not less, and we have to do it now to respond to the issue of homeland defense.

A few weeks ago I met with my Governor and all the emergency preparedness officials in the State of Rhode Island. They have an excellent plan. They have an idea of what they can do, what they must do. They don't have the resources to do it. Time waits for no person. And if we waste this time when the crisis comes and a response is necessary, the plans won't mean anything.

This funding is critical now. It is critical to protect our preparedness infrastructure to allow first responders with appropriate equipment, with radios that communicate with all the different agencies, to be in place—not on order. We have to move now, and we have to move aggressively, and that is what the chairman has done. He has carefully weighed conflicting demands for scarce resources, and he has come up with a plan that covers the gamut of major responsibilities at the State level. We have to protect our infrastructure. We have to protect our nuclear facilities. We have to ensure that all of our State agencies and Federal agencies and not-for-profit groups, such as the Red Cross, are coordinated.

Rhode Island is one of three or four States that have a plan that has been approved and accepted by the Federal Government. They know what to do. But they would be the first to tell you, as they told me, they don't have the resources to do the job. When the crisis comes, when an attack comes, we cannot satisfy our constituents simply by saying we had a good plan. We have to be able to act. This money is necessary now. I commend and thank the chairman for his great efforts, his leadership on those resources.

If I may, I request 1 more minute.

Mr. BYRD. I yield 1 more minute.

Mr. REED. I am particularly concerned, in terms of assisting local communities, that they have these resources now because it will signal, first, that the Federal Government is committed to supporting them now; second, it will leverage State dollars. We are approaching a situation where the States are under extreme fiscal distress. Without the foundation of this Federal funding, I am very pessimistic that States will come forward.

If it is not important for us, the Federal Government charged with protection of our country, then how is it important to a State legislature to appropriate funds this coming year, in the next few months? That is another reason I believe we have to act now. We have to act promptly.

In addition, we have to be able to support the efforts of the State governments to begin to take these plans and

operationalize them—to go and actually test these plans. Frankly, we will not know the gaps until they go out and test it. This money could enable that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REED. I yield the floor.

Mr. BYRD. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I strongly support the leadership and initiatives of the distinguished Senator from West Virginia with regard to these issues on homeland defense.

There are so many powerful arguments that support this investment that I think our society needs to make in the protection of our communities through the bioterrorism initiative, which puts money in State and local hands, money that will make a difference to make sure we have the plans in place to really protect our people.

I live in New Jersey. We had a number of anthrax-related events in our Postal Service. We were not prepared, and the State ended up coming in and spending enormous amounts of money. It needs to be addressed now. That is why the kind of program that Senator BYRD has put together is so important.

It is a good economic policy. We need to have confidence in our society right now. This is a statement to all of the people in this country that we take these issues seriously with regard to homeland defense, whether it is from bioterrorist attacks or whether it is protecting our nuclear plants, of which we have four in New Jersey. It is absolutely essential we send out these sure and certain statements that we care.

It is good economic policy because it will stimulate our economy. We do not want to get too far away from that. This is real expenditures that will be out the door quickly.

Our States are desperately strapped, as the Senator from Rhode Island was just saying. New Jersey has a $1.9 billion deficit in this fiscal year, the one that ends June 30. They need resources to be able to be economically sound in a tough economic environment.

It is inconceivable to me that we do not stand strong with New York City and New York State at this period of time. I have seen the two Senators make their presentations today with regard to the devastation. This is money not going to be available in the near term when the need is the greatest. We need to act. I have lived and worked in the community around New York for 30 years. The desperation, the depression that we have—in an economic and emotional context—is real. We need to send these signals. That is what this is about. It will do much along those lines.

I will be very parochial. This bill has meaningful elements in it for the State of New Jersey—those parts of New Jersey, by the way, that are linked inextricably with New York City. There is $100 million for ferry service, $81 million for law enforcement. Part of that, $34 million, is going to the State police in New Jersey. We have one boat patrolling the ports—one boat.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CORZINE. For all these various reasons, I strongly support Senator BYRD's amendment.

Mr. STEVENS. Madam President, I shall use the remainder of our time and then the Senator from West Virginia, the chairman, shall close on this motion.

I call to the attention of the Senate that the act of September 18 was specific in the sense of dealing with $40 billion for the costs of:

> . . . providing Federal, State and local preparedness for mitigating and responding to the attacks . . . providing support to counter, investigate, or prosecute domestic or international terrorism . . . providing increased transportation security . . . repairing public facilities and transportation systems damaged by the attacks; and . . . supporting national security.

Then it says:

> Provided, That these funds may be transferred to any authorized Federal Government activity to meet the purposes of this Act.

It later specifically says:

> . . . not less than one-half of the $40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania, on September 11, as authorized by law. . . .

''As authorized by law,'' the funds must go to Federal agencies for authorized Federal activities.

Senator BYRD's amendment—and I think we are going to have to go there sometime in the future—goes beyond this law. It goes beyond the $40 billion and makes $15 billion more available, and not all of it is channeled through Federal activities.

Again, I do not argue with the intent. I think he is right. Eventually we will have to do that. But for now, if we look at what my amendment has done—and we are going to modify it to a certain extent, based upon the comments of the Senator from West Virginia and the Senators from New York. No one is perfect about this. We are trying to allocate this money where it is needed within the $40 billion and follow the existing law and authorization. The authorization for the $20 billion we are dealing with now is in the act of September 18. But for that authorization, the whole amount would be subject to a point of order on the basis of emergency. But that emergency was declared on September 18.

We are dealing with a concept of fulfilling that. Nothing we do tonight will alter the commitment to New York and Pennsylvania and Virginia that not less than $20 billion of the $40 billion is dedicated to Federal activities in support of recovery in those States. Respectfully, New Jersey was not included, I am sorry to say. They probably are the beneficiary of some of the moneys that will be spent in recovering from the New York moneys that were guaranteed. I think we probably should have included New Jersey in there on September 18, as a matter of fact.

But I urge the Senate not to declare this emergency and not to support the waiver of the budget resolution that provides for such a procedure of a point of order when the moneys exceed the amount of the budget process. We had an agreement with the President. The Senator from West Virginia and I have done our absolute best to keep the agreement with the President. I think the Senator from West Virginia will be the first to admit his $15 billion goes beyond the concept of the rest, to which the rest of us were committed.

I hope to be here in the Chamber in March or April supporting the chairman, the Senator from West Virginia, and supporting the request of the President of the United States for additional moneys to cover many of the targets of his amendment.

I yield the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, let me thank my friend, Senator STEVENS, for being the man that he is. He is a Senator. He is a first-class Senator. He lives up to his responsibilities under the Constitution. He reveres this institution. He lives up to his promises to his fellowman. I watched him the other day in the committee and how he said no. He is a Senator who says no and does not lose respect in any way. He does not make you angry. He almost makes you like him when he says no. He is a remarkable man. In this debate, he has given me much of his time. He did the right thing. He offered to let me close the debate on my motion. I could close the debate, but he offered it. I didn't have to fight for it.

Madam President, I thank my friend. Let me say this: No matter what the outcome, Senator STEVENS will always be my friend. I will not think less of him for his opposition. I will think more of him for the way he has conducted himself. We have two Medal of Honor winners in this body, as far as I am concerned: DANNY INOUYE; and, although TED STEVENS hasn't formally been presented with such a medal, from me he gets one also. I love him. There is a friend who walketh closer to a brother. And TED STEVENS is one who does that.

On November 8, President Bush addressed the Nation. In his remarks, the President asked the American people for courage. He asked them for vigilance, for volunteerism, and for adherence to time-honored values. He called upon them to carry on with their lives. He told them that they had new responsibilities. He asked for their help in fighting this new war on terrorism here at home.

I have no quarrel with many of the things which the President said. But the first responsibility of any government is to protect the safety of its citizens. How can we ask our people to

shoulder new responsibilities to fight the war against terror, unless this Government first lives up to its most basic duty—ensuring the safety of our citizens on our own soil.

Ask those men in Afghanistan: How would you vote on this amendment? Would you vote to give the people back home the security that this amendment provides to them? How would they vote? I have no doubt that a great majority of them would vote for this amendment. They are thinking of their loved ones back here, too, who might any day be subjected to a terrorism attack. Would they take the position, well, let them wait until the spring? Let them wait for the supplemental? How laughable that is.

This Government must take positive, proactive steps right now to shore up our homeland. If we are all to become citizen soldiers here at home, let us make sure that we provide those homeland soldiers with at least a front line of defense. I am talking about protecting our airports; screening baggage and passengers thoroughly; protecting mass transit; protecting rail service; guarding our ports; patrolling our nuclear power plants, dams, bridges; guarding chemical plants, food suppliers, water supplies; protecting malls, and stadiums. If 911 taught us anything, it taught us that we are vulnerable in hundreds of ways. It taught us that the unthinkable is not only thinkable—it has happened. We are totally derelict in our duties as public servants if we learn nothing—take no real action—as a result of the horrific experiences of September 11.

On November 8, the President's remarks were the classic call to public service. ''Ask what you can do for your country'' was its rhetorical theme. And I applauded him. And while I have no problem with those sentiments, and hope that they do inspire more of our people to service and unselfish action, I think that we should all be aware that the ground has shifted under us. The battleground is no longer just on some distant shore in Afghanistan, it is in New York, Florida, Pennsylvania, California, Washington—indeed anywhere in this great land. I think that the American people now have a right to ask their country what it can do for their safety.

Anthrax has turned up in our mail. Where is the massive effort to be sure that we can sanitize our mail for that threat?

I have received 12 letters from my constituents since those Twin Towers went down—12 letters I have received. My staff has been evacuated from the southeast corner of the Hart Building. What about the people out there? What about their safety? What about my wife's safety when she goes to the mailbox? My daughter, your daughter, his daughter, think of them.

The Postmaster General has been told by this administration that he will only get $175 million for equipment to sanitize mail. He needs at least $1 billion even to begin. Whether the anthrax scare was homegrown or the work of madmen in other lands makes no difference. Poisoned mail poses a new threat to our people and we need to find ways to deal with making mail safe to handle and safe to receive.

Smallpox could be a devastating blow to this nation, and indeed to the world, should some madman find a way to unleash its horror on an unsuspecting population. Yet, where is the massive effort to develop a safe vaccine?

We need billions to combat this and other bioterrorism threats.

We need a commitment to improve our health care facilities—to train personnel to deal with widespread diseases and panic. Especially in rural areas, there is next to no frontline of defense against such bioterrorism attacks. We are like children in the dark being asked to be brave in the face of an enemy we cannot see, and whose actions we cannot predict, and with no ammunition forthcoming from a federal government to which we all pay taxes. What better use of the tax dollar than to protect our citizens as well as we can from the scourge of terrorists who have already killed thousands of Americans. We fail our people and we fail them grossly if we do not do all we can to keep them safe in their own beds. No volunteer effort can do that. No tax break can do that. Only a strong Federal commitment from the government can have any hope of success for such a massive and important task.

States will be in the frontline of any homeland defense effort, yet the states are in severe financial difficulty. Four out of five states are sliding into or are in a recession, and state revenues are suffering accordingly. Moreover many of the tax cuts in the House-passed stimulus bill would serve to rob states of the very revenues they need at this time.

An October survey by the National Conference of State Legislatures revealed that almost every state is experiencing revenue shortfalls. Forty-three states and the District of Columbia now report that revenues were below forecasted levels in the opening months of FY 2002. At least 36 states have implemented or are considering budget cuts or holdbacks to address fiscal problems. Twenty-two states have implemented belt-tightening measures that include hiring freezes, capital project cancellations and travel restrictions. Six states have convened in special sessions to address budget problems, and several others are considering special sessions later this year or early next year. Yet, we put more on them. We ask them for more.

How can we expect States in such shape to mount a frontline defense for our people if the Federal Government does not help with additional moneys dedicated to that cause? That is not just a rhetorical question. The failure to respond may have real and disastrous consequences.

We all may cheer the victory in Afghanistan when it finally comes, and we may all breathe a little easier if bin Laden is caught, but we dare not forget that the bin Laden organization has branches in 60 countries. They are here in the United States. They are cunning. They are organized, as we have so painfully learned.

Yet there is opposition to the moneys to beef up the computer capabilities of the FBI, the Immigration and Naturalization Service, and the Bureau of Customs—all agencies charged with monitoring the people and goods which come over our borders or for tracking down terrorists once they get here.

In short, there has been plenty of lip service paid to homeland security, but talk is much cheaper than a Federal funding commitment. And while it is fine to lift spirits, it is not enough. It is essential to dedicate funding to protect entities most vulnerable to terrorist attacks.

Madam President, we have been sent a horrific message. We have awakened with a start. We have suffered bad dreams. Yes, we have suffered nightmares. We have awakened, as I say, with a start. But we dare not return to our slumber. We dare not let our concentration wane and our attention wander. We will not be safer as a nation than we were on September 10, if we do not use the lessons that we have learned to make us stronger now. We will be just as unprepared the next time, God forbid, and it will be the fault of this Government and its complacency. Issuing terrorism alerts is no substitute for taking real action that we know can help minimize the threats.

So I plead with my colleagues to support this package which is intended to make our people safer and more confident. It is not a package which divides Americans. It is not a proposal that pits the rich against the poor or corporations against working people. It is a program for the safety of all Americans. It is something Democrats and Republicans can do together for our people. There should be no aisle separation here. It can change the tone in Washington by promoting unity among elected leaders. We can come together for the benefit of every man, woman and child in this Nation. We can improve the climate of fear which is troubling our people and hurting our economy. There is no partisanship—no partianship—in homeland security. It is our solemn duty. And anyone who was living in this country on September 11 knows deep in their heart that we had better start to do something now.

Madam President, I am already at the beginning of my 85th year. I have seen wars and depressions and natural disasters of huge proportions. Always, Madam President, always we have had leadership that acted quickly to protect America and her people. Now we are faced with perhaps the most dangerous threat that we have ever faced—

terrorists on our own soil. Terrorist cells in more than 60 countries in this world; terrorists plotting right now—right tonight; while we sleep, they will be plotting; plotting right now—the next attempt to kill massive numbers of innocent people.

I do not want to stand on this floor after the next terrible attack and say to my colleagues, ''We should have acted sooner. We might have saved lives.'' None of us want that on our conscience. We can act now. We can do all that we can right now to ''promote the common defense.'' Let us not wait. Let us not give bin Laden more time. Let us not hew to the party line so closely that we sacrifice the safety of our people.

The White House pulled out all stops today in the effort on behalf of the legislation that has been given the name of: promote trade security. It is fast track—fast track. And I cannot reconcile what I seem to see: an administration that says, give me fast track, an administration that says, no, but slow down when it comes to providing money for homeland defense; slow down there but give me fast track on trade legislation.

We must not go home, Madam President, without doing something to ward off what could be another tragedy of major proportions. I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us to the Senate.

I have been around here so many years, and I have seen so many things. I have seen disasters. And never have I voted against any State that came here needing help from the Federal Government in the face of disaster. I have never turned my back on any State.

And I could go down the list: Texas, $1.090 billion for Tropical Storm Allison—$452 million in 2001, including emergency funding in the fiscal year 2002 VA–HUD bill—and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes.

I have a list that I will not take the time—and I do not have the time—to read. I have a list of disasters that have occurred, and a list of responses by the Appropriations Committees of the Congress in helping the people who were suffering from those disasters. I ask unanimous consent to have that printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BYRD. Now, Madam President, how much time do I have?

The PRESIDING OFFICER. Twenty-one seconds.

Mr. BYRD. Madam President, I do not understand how any Member of this body could sleep if we fail to take this critical step for the protection of the people who sent us here.

Have we become so cynical that we cannot even do that? Are we so insensitive that we would rather embrace the cold illogic of budget deals than face our duty to ease the palpable fear in this Nation? I hope not. For if that is so, we have failed this Nation at its most critical hour. That is not the Senate I know. That is not the Senate to which I have given most of my life. Once again, I ask Senators to turn away from the sterile illogic of this misguided point of order and come together to protect our homeland and our people.

I thank all Senators. And I thank Mr. STEVENS in particular. I thank him.

EXHIBIT NO. 1

APPROPRIATIONS COMMITTEE TRADITION FOR RESPONDING TO NATURAL DISASTERS FY 1989–2001

The Senate Appropriations Committee has a long, bi-partisan tradition for responding to natural and man made disasters. Why Members are now resisting using the emergency authority for homeland defense and to fulfill the $20 billion commitment to New York boggles the mind.

FEMA Disaster Relief funding for major disasters over the last 11 years follow:

TEXAS: $1.090 Billion for Tropical Storm Allison ($452 million in 2001, including emergency funding in the FY 2002 VA/HUD bill) and Hurricane Bret in 1999, and damages from severe storms, flooding, hail, and tornadoes;

MISSISSIPPI: $238.8 Million for such disasters as Hurricane George, Tropical Storm Allison, severe storms, flooding and tornadoes. Emergency funding was also provided through CDBG for Hurricane George;

OKLAHOMA: $374.6 million total, including $37 million of emergency funding for Oklahoma City in response to the Murrah Building bombing and $183 million for a severe winter ice storm last January;

NORTH CAROLINA: $1.47 billion since 1989 for disasters such as Hurricane Floyd ($706 million), Hurricane Fran ($547 million) and Hurricane Bonnie ($38 million);

ALASKA: $113.4 Million since 1989 for such disasters as the Red Fox Fire, the Tok River Fire, the Appel Mountain Fire, and numerous severe storms and flooding;

PENNSYLVANIA: $424.8 Million since 1989 for such disasters as Tropical Storm Allison, Tropical Storm Dennis, Hurricane Floyd, and other severe storms, flooding, and tornadoes;

NEW MEXICO: $39.5 Million since 1989 for such disasters as forest fires in 2000, the Hondo Fire in 1996, the Osha Canyon Complex fire in 1998, as well as numerous severe winter storms and flooding Significant emergency funding was provided in response to the Cierra Grande fires);

MISSOURI: $344.6 Million since 1989 for such severe storms and flooding, grass fires, tornadoes and hail storm damage, including the Midwest floods.

KENTUCKY: $243.4 Million since 1989 for severe storms, flooding, mudslides, and wildfires. Over $132 million in 1997 alone for flooding and tornado damage;

MONTANA: $66 Million since 1989 for fire damage in Flathead Lake, Lincoln, Sanders, Gatalin Park, as well as severe storms, flooding, ice jams, and severe winter storm damage;

ALABAMA: $332.3 Million since 1989 for damage caused by Hurricane George in 1998 ($57.8 million), Hurricane Opal in 1996 ($52.7 million), ice storms, fires in Russelville, Chelsea, Fayette and Lookout Mountain;

NEW HAMPSHIRE: $38 Million since 1989 for damage caused by Tropical Storm Floyd in 1999, Hurricane Bob in 1991, blizzards, high winds and record snowfall damage, and severe ice storms and flooding;

IDAHO: $65.8 Million since 1989 for severe storms, flooding, mud slides, and wildfires.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Which division will be the subject of the first vote?

The PRESIDING OFFICER. Division I.

Mr. STEVENS. Homeland defense. Thank you.

The PRESIDING OFFICER. The question occurs on division I of the motion to waive section 205 of H. Con. Res. 290 of the 106th Congress. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—48

Allard	Enzi	Murkowski
Allen	Feingold	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—2

Gramm	Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the emergency designation is stricken.

The question now occurs on agreeing to division II of the motion to waive section 250 of H. Con. Res. 290 of the 106th Congress.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—48

Allard	Enzi	Murkowski
Allen	Feingold	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—2

Gramm	Helms

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the emergency designation is stricken.

Mr. STEVENS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR THURMOND'S 99TH BIRTHDAY

Mr. BYRD. Madam President, with great pleasure, I belatedly wish the happiest of birthdays to the senior Senator from South Carolina. It was 99 years ago yesterday that STROM THURMOND was born in Edgefield, SC.

Ninety-nine years old, what a feat. that makes him old enough to be my big brother!

When he was born, December 5, 1902, the Wright brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon and American space vessels exploring the far reaches of our galaxy.

When he was born. Theodore Roosevelt was President of the United States. Since then we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany.

When he was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution, the Bolshevist government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, he has been a teacher, an athletic coach, an educational administrator, a lawyer, a state legislator, and a circuit court judge.

He won his first elective office, County Superintendent, the same year that Herbert Hoover won his first elective office, 1928. He was a soldier in World War II, where he took part in the D-Day invasion of Normandy. He was a presidential nominee in 1948 and the governor of his beloved State of South Carolina from 1947 to 1951. He has been a Democrat, a Dixiecrat, and a Republican. Most of all he is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals. But, incredibly, STROM THRUMOND's greatest days were still ahead of him.

In 1954, he won his first election to the U.S. Senate as a write-in candidate—making him the only person in history to be elected to the Senate as a write-in candidate. He has now become the longest-serving Senator in history, and the oldest person ever to have served in the Senate.

But it is more than longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he brought dignity, style, and a southern refinement to this important position.

For these and other achievements, he has had high schools, state and federal buildings, as well as streets, dams, and town squares named in his honor. A few years ago (1991), the Senate designated room S–238 here in the U.S. Capitol as the ''Strom Thurmond Room'' ''in recognition of the selfless and dedicated service'' that he has ''provided . . . to our Nation and its people.''

On this, his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all these years.

He has always been an outstanding legislator, a Southern gentleman, and foremost, a good and dear friend.

Happy birthday, Senator. God Bless you.

CONFIRMATION OF LARRY HICKS

Mr. REID. Madam President, every Member of the United States Senate should be grateful for the hard work that Chairman LEAHY and the entire Judiciary Committee have exhibited in an effort to move judicial nominations forward as quickly as possible.

Even under the most extraordinary of circumstances, Chairman LEAHY has moved forward in a reasonable and timely fashion.

In the aftermath of the September 11 terrorist attacks, Chairman LEAHY spearheaded legislation through the Judiciary Committee that will provide our law enforcement agencies with the necessary tools to provide homeland security while at the same time protecting our most cherished civil liberties.

The Senate Judiciary Committee and its Members were also forced to endure a lengthy closure of its committee room and office space as a result of the anthrax-laced letter that was sent to Majority Leader TOM DASCHLE's Hart Senate Office.

Yet Chairman LEAHY and the Senate Judiciary Committee persevered.

They even approached the distinguished Chairman of the Senate Appropriations Committee and asked his permission to hold a hearing on judicial nominations in the Committee's historic conference room in the Capitol.

I attended that hearing in support of the nomination of Larry Hicks, of Reno, to be the next Judge on the United States District Court for the District of Nevada.

Larry Hicks is currently a partner in the Reno law firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks.

The Chairman of the litigation section, Larry has been with the firm since 1979.

He has extensive trial court, appellate court and settlement experience, having served as a settlement judge since 1998 for the Nevada Supreme Court.

Larry is also admitted to practice in all State and Federal courts of the State of Nevada, the Circuit Court of Appeals for the Ninth Circuit and the United States Supreme Court.

Prior to his private practice, Larry served the people of Northern Nevada for 11 years in the Office of the Washoe County District Attorney.

In 1975, he was elected District Attorney of Washoe County.

Larry received his undergraduate degree from the University of Nevada in

Reno and received his law degree from the University of Colorado School of Law in Boulder.

He has also received numerous awards and recognition from a variety of organizations, including the Nevada State Bar, where he has served on the Board of Governors, and as President, the American Bar Association, the Association of Trial Lawyers of America and the International Association of Gaming Attorneys.

Larry and his wife Marianne have been blessed with a beautiful family. They are the proud parents of three children, Carrie, Amy and Christopher, all of whom are graduates of the University of Nevada in Reno.

He is a fine man, a fine Nevadan, and I am sure that he will be a fine judge.

I would also like to take a moment to commend my friend and colleague from Nevada, Senator JOHN ENSIGN.

Senator ENSIGN and I have discussed every candidate that he has recommended to President Bush, and I fully support his selections.

It has truly been a bipartisan approach with respect to the federal bench in Nevada, and I am so pleased that the Senate will soon vote to confirm Larry Hicks to be the next Judge on the U.S. District Court for the District of Nevada.

COMMEMORATING THE 60TH ANNIVERSARY OF THE ATTACK ON PEARL HARBOR

Mr. DOMENICI. Madam President, I rise today to commemorate the selfless men and women who sacrificed so much to protect freedom during the December 7, 1941 attack on Pearl Harbor. On that fateful day, 2,403 members of the Armed Forces lost their lives defending freedom. I salute the New Mexicans who were caught in that attack, and those who subsequently answered the call of their grateful nation to bear arms in its defense.

Sixty years ago, the unwarranted attack by the Imperial Japanese Navy and Air Force on Pearl Harbor challenged the peace and well-being of this great Nation. However, the attack served as a catalyst, unifying this Nation and galvanizing the bravery of our people. With enormous self sacrifice and unbound patriotism, the ''greatest generation,'' those who lived and served during the Second World War, rose up to meet the challenge and overcame adversity.

In the aftermath of September 11, this country is once again dealing with an unwarranted attack on our homeland and our freedom. As America commemorates the 60th anniversary of the attack on Pearl Harbor, we appreciate more than ever before the heroes of the past. The American people look to that generation's courage and heroism to find solace and inspiration for meeting the threats we face today. As Americans then used every avenue available—defense programs, universities and research institutions, the national laboratories, and an energized public—to win World War II, so too, must we be just as resourceful in fighting the war on terror.

Today, just as then, our national laboratories play a vital role in the fight against terrorism. In my home State of New Mexico, the laboratories are contributing to help ensure domestic preparedness and security.

The anniversary of the attack on Pearl Harbor reminds us of those who paid the ultimate price to protect our Nation, even as brave Americans are paying that price today in the war on terror. I am honored to pay tribute to those who served, and are serving, in the defense of this great Nation.

CONFERENCE REPORT TO H.R. 2944, THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 2002

Mr. CONRAD. Madam President, I rise to offer for the RECORD the Budget Committee's official scoring on the conference report to H.R. 2944, the District of Columbia Appropriations Act for Fiscal Year 2002.

The conference report provides $408 million in discretionary budget authority, which will result in new outlays in 2002 of $370 million. When outlays from prior-year budget authority are taken into account, discretionary outlays for the conference report total $418 million in 2002. By comparison, the Senate passed bill included $408 million for the District, which would have increased total outlays by $416 million in 2002. The conference report is at the subcommittee's Section 302(b) allocation for both budget authority and outlays. It does not include any emergency-designated funding. In addition to the Federal funds, the conference report to H.R. 2944 also approves the District government's budget for 2002, including granting it the authority to spend $7.154 billion of local funds.

It is important that the Congress complete its work on the remaining appropriations bills for 2002. In the case of this report, H.R. 2944 not only provides a limited amount of Federal funding to the District, but also, through the enactment of its budget, allows the city to obligate and spend its own local revenues. We should act on behalf of the citizens of D.C. to allow the District to implement the budget sent forth to us by its elected leaders.

I ask unanimous consent that a table displaying the budget committee scoring of the conference report to H.R. 2944 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2944, CONFERENCE REPORT TO THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

[Spending comparisons—Conference Report (in millions of dollars)]

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	408	.....	408
Outlays	418	.....	418
Senate 302(b) allocation: [1]			
Budget Authority	408	.....	408
Outlays	418	.....	418
President's request:			
Budget Authority	342	.....	342
Outlays	362	.....	362
House-passed:			
Budget Authority	398	.....	398
Outlays	408	.....	408
Senate-passed:			
Budget Authority	408	.....	408
Outlays	416	.....	416
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation: [1]			
Budget Authority	.....	.....	.....
Outlays	.....	.....	.....
President's request:			
Budget Authority	66	.....	66
Outlays	56	.....	56
House-passed:			
Budget Authority	10	.....	10
Outlays	10	.....	10
Senate-passed:			
Budget Authority	.....	.....	.....
Outlays	2	0	2

[1] For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Prepared by SBC Majority Staff, 12–6–01.

CONCERN FOR THE INTEGRITY AND REPUTATION OF THE UNITED STATES CIVIL RIGHTS COMMISSION

Mr. HATCH. Madam President, I rise today to address an unfortunate situation that has come to my attention concerning the United States Civil Rights Commission. One might even say that it is unbelievable.

There is no one in this body that has greater appreciation for the work and history of the United States Civil Rights Commission than I do, and for the need of having a body such as this that can review issues that may arise in the area of civil rights without the taint of partisanship or ideologies. It is comforting to know that there is such a body that gathers disinterested public servants of unimpeachable integrity with a passion for the great work of securing the freedoms which belong to all citizens, without discrimination.

As you know, the Congress has taken a great interest in the appointment of the Commission's eight members. In fact, four of the eight are appointed by the Congress, two by the Senate and two by the House. The President appoints the other four. In each case, whether appointed by the President or by the Congress, the Commission must have an equal number of Commissioners from each party.

It appears that there is a controversy brewing as to when the term of a Commissioner expires. I believe that this controversy could do severe harm to the reputation of the Civil Rights Commission and the trust that is placed in it by the American people. I hope that this is a matter that will have an immediate resolution.

Apparently, one of the presidential appointees of the previous administration, Victoria Wilson, is refusing to accept the expiration of her term. Ms.

Wilson claims that she was appointed for a six-year term, although it appears that President Clinton expressly appointed her for only one year to complete the unexpired term of Judge Leon Higgenbotham, who died before his term expired. It appears also that the Chairwoman of the Committee, Mary Frances Berry, has told the White House that she refuses to recognize the President's new appointee, a person, by the way, of impeccable credentials who is an attorney with a distinguished career. Chairwoman Berry has indicated that it would take federal marshals to seat the President's appointee when the Commission next meets.

As if the American people did not have enough drama in their lives, we hardly need something like this to further erode the public's confidence in the Civil Rights Commission. I think many of us are already concerned with the work of the Commission in recent years. They have taken on rather partisan issues, or at very least they have prosecuted issues in what often appears to be partisan ways, and arguably injudicious ways. I will not get into these concerns, but I am afraid that the Commission is doing great harm to the trust of the American people.

Rather, I would like to comment on the current situation, which is a matter of existing law. What is especially troubling is that it appears that Chairwoman Berry and Ms. Wilson are refusing to comply with the legal opinion of the White House Counsel, Judge Gonzales, as well as the independent opinion of the Justice Department.

In 1994 Congress amended the provisions governing the appointment of the Civil Rights Commissioners. Congress' intent was to ensure that the terms of the Commissioners would not expire all at once. We made provision for staggered terms for the Commissioners, adopting what is universally deemed good practice in the private corporate and nonprofit arenas. Staggered terms preserve institutional memory and experience. To have staggered terms requires that an appointee named to fill an unexpired term serve for only the remainder of that term. To do otherwise would completely eviscerate the staggering that Congress intended. The argument that Ms. Wilson, and Chairman Berry, is making—that all appointments, and Ms. Wilson's appointment in particular, are always for terms of six years—would create the untenable opportunity for mischief if Commissioners were to resign at the end of a particular administration. Commissioners could resign as a group, allowing a departing Administration to fill several seats for six year terms, and denying the incoming administration the right to name any Commissioners.

This argument, not only makes no sense, but I am also afraid that this sort of confrontational approach does very real harm to the reputation of the Commission and its individual members who the American people expect to be disinterested, apolitical public servants. I invite my colleagues to urge the immediate resolution of this matter.

I ask unanimous consent that Judge Gonzales' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, December 5, 2001.

The Hon. MARY FRANCES BERRY,
Commission on Civil Rights, 624 Ninth Street, NW., Washington, DC.

DEAR MADAM CHAIRWOMAN: I am writing to confirm our conversation yesterday about the recent expiration of Commissioner Victoria Wilson's term of service on the U.S. Commission on Civil Rights and the President's forthcoming appointment of her replacement.

As we discussed, Ms. Wilson was appointed to the Commission on January 13, 2000. Official White House records and Ms. Wilson's commission issued by President Clinton, which explicitly states that she was appointed by President Clinton to fill the unexpired term of the late Judge Leon Higginbotham, document that Ms. Wilson's term ended November 29, 2001. To be sure, in our conversation you stated that, when Ms. Wilson received her commission, she attempted to contact the White House Clerk to ask that her commission be reissued to provide for the six year term she is now claiming. However, the Clerk has no record of any such request. In any event, the commission was never reissued, a fact that can only be viewed as confirming the conclusion that Ms. Wilson's term expired on November 29, 2001 in accordance with her commission.

The Office of Legal Counsel of the Department of Justice has issued a legal opinion confirming that Ms. Wilson's term expired on November 29, 2001. The opinion rests on an analysis of the Commission's organic statute, in particular the intent of Congress expressed therein to provide for staggered terms of commissioners. The legislative history of the 1994 amendments to the statute also makes plain that Congress intended to preserve the system of staggered terms. As you yourself noted in 1983 in testimony before Congress, the staggered terms system was proposed by commission members to limit the degree of political influence over the commission. H.R. 98–197, 1983 U.S.C.A.A.N. 1989, 1992. Of course, the orderly staggering of terms intended by Congress would be frustrated if vacancies created through death or resignation could be filled with commissioners appointed for new six year terms. Ultimately, the balance between continuity and change sought by Congress in allowing a fixed number of new members to be appointed at regular intervals would give way to a process in which Presidents and commissioners alike could ''game the system'' by timing resignations and appointments.

In our conversation yesterday, I explained the legal position of the White House and the Department of Justice. I also explained, that President Bush has selected an individual—Peter Kirsanow—whom he intends to appoint to succeed Ms. Wilson. Mr. Kirsanow is an extraordinarily well-qualified individual. He is a partner with a major Cleveland law firm and has served as chair of the Center for New Black Leadership and as labor counsel for the City of Cleveland. Because there is a vacancy on the Commission, the President intends to appoint Mr. Kirsanow as a commissioner as soon as possible.

You maintained, however, that you support Ms. Wilson in her decision to purport not to vacate her position and to continue service and to attend the Commission's upcoming meeting on December 7. Moreover, you informed me that you do not consider yourself to be bound by opinions of the Department of Justice nor do you intend to abide by them or to follow the directives of the President in this matter. You further informed me that you will refuse to administer the oath of office to the President's appointee. I advised you that any federal official authorized to administer oaths generally could swear in Mr. Kirsanow.

Finally, you stated that, even if Ms. Wilson's successor has been lawfully appointed and has taken the oath of office, you will refuse to allow him to be seated at the Commission's next meeting. You went so far as to state that it would require the presence of federal Marshals to seat him.

I respectfully urge you to abandon this confrontational and legally untenable position. As to questions regarding Ms. Wilson's status, we view these as a matter between Ms. Wilson and the White House. With respect to Mr. Kirsanow, any actions blocking him from entering service following a valid appointment would, in my opinion, violate the law. The President expects his appointee to take office upon taking the oath and to attend upcoming meetings as a duly appointed commissioner. The President also expects all sworn officers of the United States government to follow the law.

In sum, the law and official documents make clear that Ms. Wilson's term expired last week, November 29, 2001, and that she is no longer a member of the U.S. Commission on Civil Rights. As soon as Mr. Kirsanow takes the statutory oath, the incumbent commissioners and staff should treat the President's new appointee as a full member of the Commission.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

CONFIRMATION OF JOHN WALTERS AS DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. MCCAIN. Madam President, I want to congratulate John Walters, the new Director of the Office of National Drug Control Policy, on his confirmation by the Senate last night. I have no doubt that the hard work and experience he brings to the Office will greatly benefit our efforts to reduce drug abuse in our nation.

I do wish he could have been confirmed much earlier, considering the challenges we face at home and overseas. In the last eight years alone, teenage drug use has almost doubled and, as I speak, terrorists, including those we are fighting in Afghanistan and across the globe, are using the drug trade to help finance their operations.

President Bush nominated John Walters in early June, but he was not granted a hearing until October 10. Finally, on November 8 and five months after his nomination, John Walters was favorably voted out of the Senate Judiciary Committee, 14 to 5, with five Democrats joining all the Republicans in support of his confirmation. Seven months to be confirmed is not a credit to the workings of the Senate.

It was disappointing that, of the small number of activists opposed to

the nomination of John Walters, a few carried on a campaign to distort his public policy positions. Americans would not have known if they just listened to these activists that John Walters believes that many first-time, nonviolent offenders ought to be diverted into treatment. In fact, when he was deputy drug czar in the first Bush Administration under William Bennett, he helped secure increases in the drug treatment budget in four years that were double what the previous administration managed in eight. And it's also noteworthy that the previous administration enforced the very same anti-drug laws that some of John Walters' opponents today criticize, and the same administration made no effort to change them.

I look forward to working with John Walters and hope his needlessly protracted nomination process will not discourage other outstanding Americans from considering public service to our Nation.

OUR CONSTITUTION

Mr. CARPER. Madam President, let me begin by saying plainly and unabashedly that I love our flag. I wear an American flag lapel pin to work every single day. We fly ''Old Glory'' at our home throughout the year and display it proudly in each of my Senate offices. The American flag is even displayed on the minivan that I drive all over our State. It is the symbol of our freedom and a reflection of our pride in our great Nation.

But while our flag is the symbol of our freedom, our Nation's Constitution is its guarantee. It is the foundation on which was built the longest living experiment in democracy in the history of the world. Though written by man, I believe it to be divinely inspired. Before beginning 23 years of service as a naval flight officer, I took the same oath as each of the men and women now fighting overseas. We swore to protect our Nation's safety and honor and defend our Constitution against all enemies both foreign and domestic. The men and women of our armed forces past and present each pledged to lay down their lives in defense of the freedoms our Constitution provides. I can think of no greater honor, no more solemn a commitment, than this pledge.

On a cold December 7, 214 years ago, Delawareans stood proudly and declared their belief in the right of self-government by becoming the first to ratify the United States Constitution. Each year we celebrate this act of leadership, courage, and wisdom. While our constitution has proved the most durable model for democracy, at the time, it was a revolutionary and some thought risky step forward. For the power of its words and the brilliance of its logic is matched only by the astounding scope of what it sought to achieve, to ''establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.''

It was truly a miraculous undertaking, and we celebrate that Delaware had the courage to lead the world in embracing this new standard excellence in self-government.

But as we reflect on this bold step towards freedom, there is a stain on our celebration.

After the Constitution's ratification, the Bill of Rights sought to provide greater and more lasting liberties than any single document before or since. In 1789, the Federal Government sent the articles that would make up the Bill of Rights to States for ratification. While other States sent their approval of ratification back to the Federal Government on separate parchment, in their enthusiasm, Delaware's leaders signed their approval directly on their copy of the document and returned it to the Federal Government. While other states are now able to display their copies of the original Bill of Rights, Delaware's is locked in a drawer in the National Archives near College Park, Maryland. Our State and this document deserve better. I call today on the National Archives to return this copy of the Bill of Rights to its place of ratification. I ask that in the spirit of celebration surrounding Delaware Day, the National Archives return to us this important part of our State's history.

We are witnessing a time of renewed respect for our Nation at home and abroad. In fact, in all of my life, I've never witnessed a warmer embrace of our flag or a greater sense of pride for our country than we've seen since September 11. Almost everywhere we turn, we see signs of this renewed national pride on our homes, office buildings, factories, schools, construction sites, on the vehicles we drive, and as well at thousands of sporting events, parades and gatherings across our country. A spirit of patriotism has swept across our Nation in a way that I've never seen. It is both comforting and inspiring to me and, I know, to Americans everywhere.

This December, let us pause in thanks to those wise Delawareans who started our Nation along the road to becoming the most successful and long-lasting democracy in world history. They gave us a great gift for which we, and much of the world, will be forever thankful.

BRADY ACT SUCCESSES

Mr. LEVIN. Madam President, November 30 was the eighth anniversary of the signing of the Brady Handgun Violence Prevention Act. The passage of that legislation was a watershed event in the fight against gun violence. According to the Centers for Disease Control statistics cited by the Brady Campaign to Prevent Gun Violence, since the Brady Law went into effect, the number of gun deaths in the United States has dropped 27 percent, from 39,595 in 1993 to 28,874 in 1999. Even more dramatically, the number of gun homicides dropped by more than 40 percent from 18,253 in 1993 to 10,828 in 1999.

While the Brady Law is not the only reason for the decrease, its impact on gun violence cannot be overlooked. Keeping guns out of criminal hands saves lives. The law's requirement that gun purchasers undergo a criminal background check before they can buy a firearm has stopped literally hundreds of thousands of criminals and others prohibited by law from purchasing a gun.

The obvious success of the Brady Law should spur us to do more to stop gun violence. A logical step would be to extend the Brady Law's mandatory criminal background check provisions. As it stands, the law only applies to guns sold by Federal firearms licensees. It does not cover gun sales by unlicensed private sellers at gun shows. Despite the evidence that background checks save lives, lobbyists from the National Rifle Association and their allies have fought against legislation to close the ''gun show loophole.'' The Senate should not allow itself to be held hostage by the gun lobby. I urge my colleagues to join me in supporting efforts to bring legislation to the floor to close the gun show loophole.

CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 314

Mr. CONRAD. Madam President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to make adjustments to budget resolution allocations and aggregates for amounts designated as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Pursuant to section 314, I hereby submit the following revisions to H. Con. Res. 83 as a result of provisions designated as emergency requirements in P.L. 107–42, the Air Transportation Safety and System Stabilization Act. This measure was enacted into law on September 22, 2001.

I ask consent that the following table be printed in the RECORD, which reflects the changes made to the allocations provided to the Senate Committee on Commerce, Science, and Transportation and to the budget resolution aggregates enforced under section 311(2)(A) of the Congressional Budget Act, as amended.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In millions of dollars]

Current Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	13,452
FY 2002 Outlays	9,630
FY 2002–06 Budget Authority	72,789
FY 2002–06 Outlays	50,419
FY 2002–11 Budget Authority	164,611

FY 2002–11 Outlays	118,775
Adjustments:	
FY 2002 Budget Authority	+2,000
FY 2002 Outlays	+3,200
FY 2002–06 Budget Authority	+2,000
FY 2002–06 Outlays	+4,700
FY 2002–11 Budget Authority	+2,000
FY 2002–11 Outlays	+4,700
Revised Allocation to the Senate Commerce, Science, and Transportation Committee:	
FY 2002 Budget Authority	15,452
FY 2002 Outlays	12,830
FY 2002–06 Budget Authority	74,789
FY 2002–06 Outlays	55,119
FY 2002–11 Budget Authority	166,611
FY 2002–11 Outlays	123,475
Current Budget Resolution Spending Aggregate Allocation:	
Budget Authority for 2002	1,517,719
Budget outlays for 2002	1,481,928
Adjustments:	
Budget authority for 2002	+2,000
Budget outlays for 2002	+3,200
Revised Budget Resolution Spending Aggregate Allocations:	
Budget authority for 2002	1,519,719
Budget outlays for 2002	1,485,128

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 25, 1991 in San Francisco, CA. John Quinn, a gay man, was attacked by a man who threw a bar stool at him, yelling ''Faggot, faggot, faggot!'' The assailant, Mai Nguyen, was arrested in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

IN SUPPORT OF THE TERRORIST VICTIM CITIZENSHIP RELIEF ACT

Mr. TORRICELLI. Madam President, I rise today to support the Terrorist Victim Citizenship Relief Act, legislation introduced yesterday by Senator CORZINE. While we all know the horror of the terrorist attacks of September 11, many who lost a loved during those tragic events face additional difficulties that our fellow Americans do not.

One such person is Deena Gilbey, a young women living with her family in New Jersey. On September 11, Mrs. Gilbey lost not only her husband Paul, but because she had been residing in the United States on her husband Paul's work visa, she faced deportation upon his passing.

There are still many unresolved issues that Mrs. Gilbey and those like her face. The Terrorist Victim Citizenship Relief Act is designed to provide relief to families that face potential deportation and other difficulties because of the death of their primary visa holder on September 11. It would enable them to address many of the daunting issues by conferring United States citizenship upon them.

I want to thank Senator CORZINE for introducing this legislation and am pleased to be a cosponsor of it. I urge my fellow Senators to join in support of this measure.

THE CONTINUING NEED FOR FISCAL DISCIPLINE

Mr. VOINOVICH. Madam President, 2001 has been a year of tragedy for the United States as well as a year of resolve. I am proud of the way my fellow Americans have united behind efforts to heal and comfort their fellow citizens who have been devastated by the attacks of September 11.

Just as the American people have opened their wallets to provide hundreds of millions of dollars to those in need, the Federal Government so too has provided billions of dollars to make our homeland safe, rebuild, comfort and provide, and wage war against the terrorist enemies of freedom.

Protecting our homeland and fighting terrorism are our Nation's top priorities right now, and the work of this body and the use of our Nation's resources must reflect that.

One critical way we do that is to vigilantly guard against the misuse of the taxpayer's hard-earned dollars and ensure that we get the most out of every dollar spent on homeland defense and the war on terrorism. Those who seek to use the current crisis as an excuse to spend more on pet projects should be ashamed of themselves and their efforts must be defeated. We simply cannot afford pork barrel politics right now, period.

Just look how quickly things have changed in our country—with amazing speed we went from an environment where some of us were worried the government would run out of national debt to repay, to an environment where not only is the Federal Government no longer paying off debt, but regrettably, it is adding to it.

The year started out with the President proposing a budget with a roughly 4 percent increase in discretionary spending. Given last year's enormous 14.5 percent increase in non-defense discretionary spending, I thought a 4 percent increase was reasonable and realistic, and I was pleasantly surprised that the Senate budget resolution didn't dramatically exceed this figure, as I feared, but instead was largely in-line with the President's budget plan. Because of this, I supported the $661 billion in discretionary spending it contained.

Besides supporting the budget resolution, I also supported the President's tax cut, because I saw it fit within a plan whereby spending increases would be limited and the Social Security surplus would be reserved for reducing the national debt. Clearly the situation has changed.

Even before the events of September 11, Congress was on-track to increase overall discretionary spending by approximately 8 percent. To facilitate the completion of the annual appropriations process, a deal was struck by the Administration and the members of the appropriations committee to set a discretionary spending cap of $686 billion in fiscal year 2002—$25 billion more than agreed to in the budget resolution.

This number was agreed to by the appropriators and leaders in both parties in both Houses, and the President. In the President's letter to the leaders agreeing to this new, revised number he wrote, ''And I expect that all parties will now proceed expeditiously and in full compliance with the agreement.''

While I was disappointed that this deal circumvented the budget resolution, I believe it quite likely would have been worse if no deal had been struck, and Congress had been able to steam roll the budget resolution in the urge to spend. Now Congress is poised to leave this number and this agreement in the dust as appropriators seek billions more.

Some justify this by saying that the current crisis requires the death of fiscal discipline. Nothing is further from the truth. The current crisis requires us to be more fiscally disciplined than ever before, to carefully direct funds to the most pressing needs of defending against and fighting terrorism.

Compounding the problem is the softening economy and the need to walk the tightrope of crafting a stimulus package to provide short-term relief without causing long-term harm.

We are certainly in a grave fiscal situation. Spending is required but not too much, stimulus is required but it cannot be overly zealous. If we fall from this tightrope, there is no safety net to catch us. Instead our Nation falls into the grasping arms of structural deficits, from which we only recently freed ourselves after decades of imprisonment.

After working so hard to free ourselves from deficit spending, starting to pay off our debt, and beginning to prepare for Social Security's looming insolvency, isn't it worth it for us to do all we can to keep from slipping back into the clutches of deficits?

The only way to avoid this is through self-discipline. Every member must sacrifice individual political wants for the greater good of the nation. We need to avoid pet projects. We need to set aside our parochial interests.

We should proceed very carefully and very deliberately with every piece of legislation that authorizes any additional spending or equally importantly, reduces revenues. Unless we get a handle on our spending habits, we are going to add to the national debt that

we stand to pass on to our children and grandchildren.

Sometimes I wonder if my colleagues actually realize how dire the condition of the Federal Government has become. As it now stands, for fiscal year 2002, we are poised to spend every last tax dollar we collect and the entire $174 billion projected Social Security surplus. On top of that, we are going to issue new debt to the tune of $52 billion to pay for the fiscal stimulus bill and another $15 billion on top of that if the senior Senator from West Virginia gets his way.

OMB Director Mitch Daniels, in a speech last week before the National Press Club, relayed the same sobering message. According to Director Daniels, the Federal Government is on track to run a deficit through the remainder of this presidential term.

So, as we discuss every piece of legislation that will cost money or reduce revenues, whether on efforts to fight terrorism or anything else we do, we must ask ourselves: Do these new spending initiatives warrant issuing new debt to pay for them?

With this in mind, I am utterly amazed that some of my colleagues are proposing new spending.

For example, the Agriculture Committee is proposing a new farm bill that would increase agricultural spending by roughly $70 billion over the next 10 years. I ask my colleagues, should we issue new federal debt to increase payments to farmers?

Wasn't the Freedom to Farm bill designed to free farmers from dependency upon federal handouts so they could farm as they wished in response to international market conditions? Would the farming community support these proposals if they knew that we were going to have to issue debt to provide such payments? We're poised to debate a farm bill yet the old farm programs don't even expire until next year. Is this money and this bill the most critical thing we should be doing at this time?

Other colleagues of mine today are proposing additional spending increases over and above the $686 billion agreed to with the President earlier this Fall, and the $40 billion emergency supplemental passed in the aftermath of September 11; $20 billion of which is included in this Department of Defense Appropriations bill. They think the Federal Government needs to spend an additional $15 billion on homeland security.

The fact of the matter is the Director of Homeland Security, Governor Tom Ridge, says we don't need any more funds for homeland defense at this time than the amount requested by the President because of what we've already passed here on Capitol Hill. Why are we unwilling to take his word on this issue? It seems to me that he and the President, our Commander in Chief, are more qualified to advise us on what the nation needs and we should heed their advice.

Other colleagues are considering increasing education spending by billions of dollars over and above the already large increases agreed to by the President and the Appropriations Committee. Again, I ask, should we issue new federal debt to increase education spending—which as we all know has been, is, and should be primarily a state and local responsibility?

I am flabbergasted to watch this parade of spending proposals at a time when we have to dig ourselves deeper in debt to pay for them.

I am encouraged that the President has taken a stand by pledging to veto an emergency supplemental spending measure that would exceed the $686 billion spending agreement. I stand squarely behind the President.

And if the President indeed uses his veto to control spending, I will vote against any attempt to override it. Hopefully my colleagues on both sides of the aisle who care about fiscal responsibility and who care about honoring an agreement we made with the President will join me in supporting his veto. It is fortunate we have a President with the courage to hold fast against rampant spending, even if that spending is cloaked in the guise of homeland safety and national defense. The Administration recognizes that we have to draw a line and is willing to lay it on the line.

The Senate is supposed to be a deliberative body, a cooling saucer if you will. At this crucial time, it is important that the Senate carry out its appointed role. If we do increase spending, it should be limited to measures that truly enhance domestic and international security and efforts that truly stimulate the economy. We should not accept the fact that the Treasury Department must once again issue new debt to finance the operation of the Federal Government for any longer than is absolutely necessary, and every dollar we spend is going to be borrowed money.

The current crisis is not an excuse to spend but is a call to vigilance. As we fight for the future security of our country and our ideals, let us also fight for the future fiscal health of our nation which will in turn help provide for the continued and future stability and prosperity of the American people.

JOINT COMMITTEE ON PRINTING, 107TH CONGRESS

Mr. DAYTON. Madam President, on November 21, 2001, the Joint Committee on Printing organized, elected a Chairman, a Vice Chairman, and adopted its rules for the 107th Congress. Members of the Joint Committee on Printing elected Senator MARK DAYTON as Chairman and Congressman ROBERT W. NEY as Vice Chairman. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULE 1.—COMMITTEE RULES

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee's rules shall be published in the Congressional Record as soon as possible following the Committee's organizational meeting in each odd-numbered year.

(c) Where these rules require a vote of the members of the Committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a Committee meeting, unless the ranking minority member assents to waiver of this requirement.

(d) Proposals for amending Committee rules shall be sent to all members at least one week before final action is taken thereon, unless the amendment is made by unanimous consent.

RULE 2.—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if there is no business to be considered and after appropriate notification is made to the ranking minority member. Additional meetings may be called by the Chairman, as he may deem necessary or at the request of the majority of the members of the Committee.

(b) If the Chairman of the Committee is not present at any meeting of the Committee, the vice-Chairman or ranking member of the majority party on the Committee who is present shall preside at the meeting.

RULE 3.—QUORUM

(a) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(b) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 4.—PROXIES

(a) Written or telegraphic proxies of Committee members will be received and recorded on any vote taken by the Committee, except for the purpose of creating a quorum.

(b) Proxies will be allowed on any such votes for the purpose of recording a member's position on a question only when the absentee Committee member has been informed of the question and has affirmatively requested that he be recorded.

RULE 5.—OPEN AND CLOSED MEETINGS

(a) Each meeting for the transaction of business of the Committee shall be open to the public except when the Committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No such vote shall be required to close a meeting that relates solely to internal budget or personnel matters.

(b) No person other than members of the Committee, and such congressional staff and other representatives as they may authorize, shall be present in any business session that has been closed to the public.

RULE 6.—ALTERNATING CHAIRMANSHIP AND VICE-CHAIRMANSHIP BY CONGRESSES

(a) The Chairmanship and vice Chairmanship of the Committee shall alternate between the House and the Senate by Congresses: The senior member of the minority party in the House of Congress opposite of that of the Chairman shall be the ranking minority member of the Committee.

(b) In the event the House and Senate are under different party control, the Chairman and vice Chairman shall represent the majority party in their respective Houses. When the Chairman and vice-Chairman represent different parties, the vice-Chairman shall

also fulfill the responsibilities of the ranking minority member as prescribed by these rules.

RULE 7.—PARLIAMENTARY QUESTIONS

Questions as to the order of business and the procedures of Committee shall in the first instance be decided by the Chairman; subject always to an appeal to the Committee.

RULE 8.—HEARINGS: PUBLIC ANNOUNCEMENTS AND WITNESSES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman shall make such public announcement at the earliest possible date. The staff director of the Committee shall promptly notify the Daily Digest of the Congressional Record as soon as possible after such public announcement is made.

(b) So far as practicable, all witnesses appearing before the Committee shall file advance written statements of their proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited insertions or additional germane material will be received for the record, subject to the approval of the Chairman.

RULE 9.—OFFICIAL HEARING RECORD

(a) An accurate stenographic record shall be kept of all Committee proceedings and actions. Brief supplemental materials when required to clarify the transcript may be inserted in the record subject to the approval of the Chairman.

(b) Each member of the Committee shall be provided with a copy of the hearing transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If any other person is authorized by a Committee Member to make his corrections, the staff director shall be so notified.

(c) Members who have received unanimous consent to submit written questions to witnesses shall be allowed two days within which to submit these to the staff director for transmission to the witnesses. The record may be held open for a period not to exceed two weeks awaiting the responses by witnesses.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 10.—WITNESSES FOR COMMITTEE HEARINGS

(a) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the members of the Committee for review sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the rule of germaneness shall be enforced in all hearings notified.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

RULE 11.—CONFIDENTIAL INFORMATION FURNISHED TO THE COMMITTEE

The information contained in any books, papers or documents furnished to the Committee by any individual, partnership, corporation or other legal entity shall, upon the request of the individual, partnership, corporation or entity furnishing the same, be maintained in strict confidence by the members and staff of the Committee, except that any such information may be released outside of executive session of the Committee if the release thereof is effected in a manner which will not reveal the identity of such individual, partnership, corporation or entity in connection with any pending hearing or as a part of a duly authorized report of the Committee if such release is deemed essential to the performance of the functions of the Committee and is in the public interest.

RULE 12.—BROADCASTING OF COMMITTEE HEARINGS

The rule for broadcasting of Committee hearings shall be the same as Rule XI, clause 4, of the Rules of the House of Representatives.

RULE 13.—COMMITTEE REPORTS

(a) No Committee report shall be made public or transmitted to the Congress without the approval of a majority of the Committee except when Congress has adjourned: provided that any member of the Committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible.

(b) Factual reports by the Committee staff may be printed for distribution to Committee members and the public only upon authorization of the Chairman either with the approval of a majority of the Committee or with the consent of the ranking minority member.

RULE 14.—CONFIDENTIALITY OF COMMITTEE REPORTS

No summary of a Committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the Committee or by any staff member of the Committee prior to the issuance of a report of the Committee.

RULE 15.—COMMITTEE STAFF

(a) The Committee shall have a staff director, selected by the Chairman. The staff director shall be an employee of the House of Representatives or of the Senate.

(b) The Ranking Minority Member may designate an employee of the House of Representatives or of the Senate as the minority staff director.

(c) The staff director, under the general supervision of the Chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the Committee.

(d) The Chairman or staff director shall timely notify the Ranking Minority Member or the minority staff director of decisions made on behalf of the Committee.

RULE 16.—COMMITTEE CHAIRMAN

The Chairman of the Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Specifically, the Chairman is authorized, during the interim periods between meetings of the Committee, to act on all requests submitted by any executive department, independent agency, temporary or permanent commissions and committees of the Federal Government, the Government Printing Office and any other Federal entity, pursuant to the requirements of applicable Federal law and regulations.

IN SUPPORT OF THE DEENA GILBEY RELIEF BILL

Mr. TORRICELLI. Madam President I rise today in support of the private relief bill for Mrs. Deena Gilbey introduced yesterday by Senator CORZINE. Along with thousands of Americans and citizens from over 60 nations, Mrs. Gilbey lost a loved one when her husband Paul died in the attacks on the World Trade Center.

Unlike many of those families, Mrs. Gilbey was not a citizen of the United States, but rather a citizen of the United Kingdom. Therefore, for the last 8 years, she has been residing in the United States on her husband's work visa with their two American born children. Then, on September 11 she was widowed when, her husband who had safely exited the World Trade Center, chose to return to help in the evacuation of those who remained behind.

In the aftermath of this horrific moment, Mrs. Gilbey found herself ''out of status'' and facing the prospect of having to uproot her two young children from their home and return to the United Kingdom. The legislation Senator CORZINE introduced will address this injustice by making Mrs. Gilbey a citizen so that she and her young sons can continue to live in this Nation that they have for so long called home.

I am pleased to be a cosponsor of Senator CORZINE's bill and urge my fellow Senators to join Senator CORZINE and myself in support of this relief for Mrs. Gilbey.

ADDITIONAL STATEMENTS

FLOYD DOMINY

• Mr. ENZI. Mr. President, I wanted to share a very interesting story with my colleagues today. It is about a very special Distinguished Alumnus of the University of Wyoming who has compiled a remarkable record and reputation as one of our most dedicated and hardworking public servants. His 90 plus years of life—and still going strong!—are the perfect showcase of Wyoming's pioneer spirit and the patience and persistence with which the people of the West have always pursued their dreams. His name is Floyd Dominy, and he has carved quite a niche for himself in the history of Wyoming, the West and the United States.

Floyd Dominy has always been a man with a dream, a unique vision of how things ought to be that has helped him to set goals and develop a plan to achieve them. He is also a man of his word, someone who saw a problem and knew how to use his unique talents and abilities to find the best solution to fix things. He has amassed quite a record of achievements and I am sure he is as proud of it as we are proud of him. He earned his fame and reputation and it's good to know he's enjoying life in the Shenandoah. It isn't Wyoming, but it's still a nice spot to relax and take a

break to do some fishing and enjoy the beauty of some of God's finest handiwork.

Floyd Dominy's story begins with his graduation from the University of Wyoming in 1932 and his arrival in Gillette to find a home and start work. He found a simple home and began his employment as a County Agent. As a matter of fact, his home was so simple, the owner didn't charge Mr. Dominy and his wife any rent because he couldn't believe anyone would want to live there. The ''fixer upper'' Mr. Dominy and his wife called home was without every convenience you could imagine, both modern and old fashioned—even for its time.

As an Agriculture Extension Agent, one of his responsibilities was to buy cattle for the Government from ranchers who were devastated by the Great Depression. They used to trail cattle on foot back then and Floyd realized there were no places to water the cattle on the way. That is when he began working on his idea of constructing dams to hold the water to make it available where it was needed. He visited with then Wyoming U.S. Senator John O'Mahoney about his ideas and Senator O'Mahoney was able to obtain Federal emergency aid to help out the farmers of Wyoming. As a result, Wyoming's farmers got some much needed work and three hundred dams were built.

Then came his service in World War II after which he joined the Bureau of Reclamation. His talents, abilities and ingenuity were soon noticed and it wasn't long before he had landed the top job at the Bureau. He served for quite a while as the Bureau of Reclamation's Commissioner, a job he held longer than anyone else. Remarkably, he served under four Presidents.

Mr. Dominy's friends would probably call him ''90 something'' years young—because he is still living a full life and enjoying every day as he always has—with an independent streak a mile long and a yard wide. He lives the code of the West—he says what he means, and he means what he says.

In an interview for an article, he was asked about his career and his philosophy about his line of work. He made it clear that he was never afraid to stand up for what he believed in and to stand up to whomever he had to so that things got done. Thanks to his determination, drive and dedication to making a difference, a lot of things got done.

Floyd Dominy had much to look back on with a great deal of pride and the satisfaction that comes from a job well done. As the Commissioner of the Bureau or Reclamation during the Administrations of Presidents Eisenhower, Kennedy, Johnson and Nixon, he left a legacy of service in that office that will probably never again be matched. We owe him a debt of gratitude for his vision and his ability to make his dreams a reality. Thanks to him, we in the West had our access to water—one of God's greatest gifts and our most prized and precious resource—greatly enhanced.●

TRIBUTE TO HAROLD SCHAFER OF NORTH DAKOTA

● Mr. CONRAD. Mr. President, today a giant presence in North Dakota history is being laid to rest.

Harold Schafer was truly larger than life. He was perhaps North Dakota's most prominent citizen—accomplished in his public life, and generous in his private life.

He grew up in western North Dakota in hard times, and went on to be the most successful entrepreneur in our State's history. Harold Schafer was a salesman's salesman. He had a magnetic personality, boundless energy, a genuine interest in people and tremendous enthusiasm for life. His curiosity and passion for living were contagious. Harold Schafer was just plain fun to be around.

He started a small business in his basement, and grew it into a multi-million dollar national enterprise. His Gold Seal company was the kind of great American success story that gave meaning to the phrase ''household name.'' Harold Schafer gave us Glass Wax, Snowy Bleach, and Mr. Bubble. He enjoyed great financial success, and his rags-to-riches story earned him the Horatio Alger award.

But Harold Schafer was much more than a successful businessman. He was interested and involved in every part of the life of North Dakota and the Nation. His acquaintances ranged from the powerful and well-known to the shoeshine man on the corner, and he enjoyed the company of all of them. He entertained General Douglas MacArthur in his home in Bismarck. He was a friend to Ronald Reagan and Perry Como. He appeared in the movie ''How the West Was Won.''

And he will always be remembered as our State's most prominent philanthropist, even though he never sought recognition for his generosity. He helped hundreds of young North Dakotans through college, almost always anonymously. I know, because he offered to put me through college when I was a young man. He helped hundreds and hundreds of others, in ways big and small. Almost always, he reached out to assist the less fortunate in ways that others never knew about.

He preferred it that way, but how he loved to help. Harold Schafer was a big man with a big heart, and a real love for life. He could talk to anyone, and learn from everyone.

His enthusiasm and energy took him into the worlds of politics, business education and philanthropy. He was the man who restored the town of Medora in the North Dakota Badlands, an important place in the life of President Theodore Roosevelt.

Harold spent millions of dollars of his own money to bring the story of that town to a national audience. Today, Medora is the premier vacation spot in our State. It is the gateway to the rugged beauty of Theodore Roosevelt National Park, and hosts a professional show every evening in the summer in a spectacular outdoor amphitheater.

Harold Schafer did not invest in Medora to make money, but to preserve the area's rich history. Medora tells a story that has inspired thousands of young people with the vision that Theodore Roosevelt and Harold Schafer shared, the ''can-do'' attitude that says, ''every person can make a difference, and every person should try.''

Harold Schafer adopted as the symbol of his company a statue of a pioneer entitled ''Work.'' He loved to work, to build and to make things better. That was at the heart of Harold Schafer's philosophy.

I know these things because I first met Harold Schafer when I was a small boy, and had the privilege of being part of his extended family. He was a close friend of my father. When my parents were killed in an automobile accident, Harold Schafer adopted my family as he did so many others. Every Christmas Eve, Harold would come to my home with a trunkload of gifts for the family, a wide smile, and genuine glee celebrating all that life had to offer.

He brought happiness to hundreds of families that had suffered a loss or a hardship. That's the kind of man Harold Schafer was. He made the world a better place while he was here, and he leaves the world a sadder place for his passing. Our sympathy goes out to his wife, Sheila, and his children, Haroldeen, Ed, Joanne, Dianne, Pamela, Mark, Michele, and Maureen, their families, and his many grandchildren and great-grandchildren. We will miss him greatly.●

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within the outside of the service area of the Lakehaven Utility District, Washington.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Alaska Natives, and Native Hawaiians.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the ''Todd Beamer Post Office Building.''

H.R. 3322. An act bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County. Utah.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economics and democratic institutions, in sub-Saharan Africa.

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2944) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2002, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2115. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington; to the Committee on Energy and Natural Resources.

H.R. 2238. An act to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2538. An act to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business and Entrepreneurship.

H.R. 3005. An act to extend trade authorities procedures with respect to reciprocal trade agreements; to the Committee on Finance.

H.R. 3008. An act to reauthorize the trade adjustment assistance program under the Trade Act of 1974; to the Committee on Finance.

H.R. 3248. An act to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the ''Todd Beamer Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3322. An act to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah; to the Committee on Environment and Public Works.

H.R. 3348. An act to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress in honoring the crew and passengers of United Airlines Flight 93; to the Committee on Rules and Administration.

H. Con. Res. 242. Concurrent resolution recognizing Radio Free Europe Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests; to the Committee on Foreign Relations.

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1766. A bill to provide for the energy security of the Nation, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 102. Concurrent resolution relating to efforts to reduce hunger in sub-Saharan Africa.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4843. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Import Restrictions Imposed on Archaeological and Ethnological Materials from Bolivia'' (RIN1515–AC95) received on December 5, 2001; to the Committee on Finance.

EC–4844. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4845. A communication from the Administrator of the General Service Administration, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4846. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Carson Wandering Skipper as Endangered'' (RIN1018–AI18) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4847. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Emergency Rule and Proposed Rule to List the Columbia Basin Pygmy Rabbit as Endangered'' (RIN1080–AG17) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4848. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Rule to List the MS gopher frog as Endangered'' (RIN1018–AF90) received on December 4, 2001; to the Committee on Environment and Public Works.

EC–4849. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Engineering Services'' (RIN2125–AE73) received on December 5, 2001; to the Committee on Environment and Public Works.

EC–4850. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''The Lead-Based Paint Pre-Renovation Education Rules''; to the Committee on Environment and Public Works.

EC–4851. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont: Negative Declaration'' (FRL7116–6) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4852. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Kansas'' (FRL7116–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4853. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois'' (FRL7098–8) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4854. A communication from the Principal Deputy Associate Administrator of the

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Significant New Uses of Certain Chemical Substances'' (FRL6807–3) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4855. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone'' (FRL7114–9) received on December 6, 2001; to the Committee on Environment and Public Works.

EC–4856. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Locational Requirement for Dispatching of United States Rail Operations'' (RIN2130–AB38) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4857. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Electric-Powered Vehicles; Response to Petitions for Reconsideration; Final Rule'' (RIN2127–AI57) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4858. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specific Aviation Activities, Technical Amendment'' ((RIN2120–AH15) (2001–0002)) received on December 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4859. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Jamaica Bay and Connecting Waterways, NY'' ((RIN2115–AE47) (2001–0121)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4860. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Crystal River, Florida'' ((RIN2115–AA97) (2001–0146)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4861. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of Tampa, Florida'' ((RIN2115–AA97) (2001–0147)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4862. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Lake Washington Ship Canal, WA'' ((RIN2115–AE47) (2001–0120)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4863. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: LPG Transits, Portland, Maine Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AA97) (2001–0148)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4864. A communication from the Chief of Regulation and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Neponset River, MA'' ((RIN2115–AE47)(2001–0119)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4865. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Series Airplanes'' ((RIN2120–AA64) (2001–0568)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4866. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 50, 900, and 900EX Series Airplanes'' ((RIN2120–AA64) (2001–0563)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4867. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (54); amdt. no. 2076'' ((RIN2120–AA65) (2001–0059)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4868. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. LTP 101 Series Turboprop and LTS101 Series Turboshaft Engines'' ((RIN2120–AA64) (2001–0560)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4869. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model B 17E, F, and G, Airplanes'' ((RIN2120–AA64) (2001–0561)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4870. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes; correction'' ((RIN2120–AA64) (2001–0562)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4871. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E5 Airspace; Reform, AL'' ((RIN2120–AA66) (2001–0174)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4872. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0564)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4873. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Series Airplanes'' ((RIN2120–AA64)(2001–0569)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4874. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Short Brothers Model SD3 Series Airplanes'' ((RIN2120–AA64)(2001–0566)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4875. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Series Airplanes'' ((RIN2120–AA64)(2001–0567)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4876. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standards Instrument Approach Procedures; Miscellaneous Amendment (43); amdt no. 2079'' ((RIN2120–AA65)(2001–0058)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4877. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (19); amdt. no. 2077'' ((RIN2120–AA65)(2001–0060)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4878. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company GE90 Series Turbofan Engines'' ((RIN2120–AA64)(2001–0559)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4879. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 11 Series Airplanes'' ((RIN2120–AA64)(2001–0557)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4880. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Logan, UT'' ((RIN2120–AA66)(2001–0175)) received on December 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4881. A communication from the Chair of the Board of the Office of Compliance, transmitting, pursuant to law, the notice of proposed rulemaking which seeks to comment on substantive regulations being proposed to implement section 4(c) of the Veterans Employment Opportunities Act of 1998, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law; to the Committee on Governmental Affairs. (The full text of the report follows:)

OFFICE OF COMPLIANCE

Hon ROBERT C. BYRD,
President pro tempore, United States Senate, Washington, DC, November 13, 2001.

DEAR SENATOR BYRD: Pursuant to section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA'') (2 U.S.C. §1316a(4)) and section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am submitting on behalf of the Office of Compliance, U.S. Congress, this notice of proposed rulemaking for publication in the Congressional Record. This notice seeks comment on substantive regulations being proposed to implement section 4(c) of VEOA, which affords to covered employees of the legislative branch the rights and protections of selected provisions of veterans' preference law.

Very truly yours,

SUSAN S. ROBFOGEL,
Chair of the Board.

OFFICE OF COMPLIANCE

The Veterans Employment Opportunities Act of 1998: Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch

NOTICE OF PROPOSED RULEMAKING

Summary: The Board of Directors of the Office of Compliance (''Board'') is publishing proposed regulations to implement section 4(c)(4) of the Veterans Employment Opportunities Act of 1998 (''VEOA''), Pub. L. 105–339, 112 Stat. 3186, codified at 2 USC §1316a, as applied to covered employees of the House of Representatives, the Senate, and certain Congressional instrumentalities.

The VEOA applies to the legislative branch the rights and protections pertaining to veterans' preference established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code (''USC'').

This Notice proposes that identical regulations be adopted for the Senate, the House of Representatives, and the six Congressional instrumentalities and for their covered employees. Accordingly:

(1) *Senate*. It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives*. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommneded by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities*. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance, and their employees; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Interested parties may submit comments within 30 days after the date of publication of this Notice of Proposed Rulemaking in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Director, Central Operations Department, Office of the Senate Sergeant at Arms, (202) 224–2705.

Supplementary Information:

Background

The Veterans Employment Opportunities Act of 1998[1] ''strengthen[s] and broadens''[2] the rights and remedies available to military veterans who are entitled, under the Veterans' Preference Act of 1944[3] (and its amendments), to preferred consideration in appointment to the Federal civil service of the executive branch and in retention during reductions in force (''RIFs''). In addition, and most relevant to this NPR, VEOA affords to ''covered employees'' of the legislative branch (as defined by section 101 of the Congressional Accountability Act (''CAA'') (2 USC §1301)) the rights and protections of selected provisions of veterans' preference law. VEOA §4(c)(2). The selected statutory sections made applicable to such legislative branch employees by VEOA may be summarized as follows.

A definitional section prescribes the categories of military veterans who are entitled to preference (''preference eligible''). 5 USC §2108. Generally, a veteran must be disabled or have served on active duty in the Armed Forces during certain specified time periods or in specified military campaigns to be entitled to preference. In addition, certain family members (mainly spouses, widow[er]s, and mothers) of preference eligible veterans are entitled to the same rights and protections.

In the appointment process, a preference eligible individual who is tested or otherwise numerically evaluated for a position in the competitive service is entitled to have either 5 or 10 points added to his/her score, depending on his or her military service, or disabling condition. 5 USC §3309. Where experience is a qualifying element for a job in the competitive service, a preference eligible individual is entitled to credit for having relevant experience in the military or in various civic activities. 5 USC §3311. Where physical requirements (age, height, weight) are a qualifying element for a position in the competitive service, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3312. For certain positions in the competitive service (guards, elevator operators, messengers, custodians), only preference eligible individuals can be considered for hiring so long as such individuals are available. 5 USC §3310.

Finally, in prescribing retention rights during RIFs for positions in both the competitive and in the excepted service, the sections in subchapter I of chapter 35 of Title 5, USC, with a slightly modified definition of ''preference eligible,'' require that employing agencies give ''due effect'' to the following factors: (a) employment tenure (i.e., type of appointment); (b) veterans' preference; (c) length of service; and, (d) performance ratings. 5 USC §§3501, 3502. Such considerations also apply where RIFs occur in connection with a transfer of agency functions from one agency to another. 5 USC §3503. In addition, where physical requirements (age, height, weight) are a qualifying element for retention, preference eligible individuals (including those who are disabled) may obtain a waiver of such requirements in certain circumstances. 5 USC §3504.

On February 28, 2000, and March 9, 2000, an Advanced Notice of Proposed Rulemaking (''ANPR'') was published in the Congressional Record (144 Cong. Rec. S862 (daily ed., Feb. 28, 2000), H916 (daily ed., Mar. 9, 2000)). The ANPR identified a number of interpretative issues on which the Board sought public comment in order to assist it in proposing the substantive regulations mandated under section 4(c)(4) of VEOA. The Board had sought to obtain an array of information regarding the employment policies and practices in the various employing offices affected by VEOA. In addition, the Board sought to gain any relevant information that might aid the Board in interpreting VEOA. In response to the ANPR, the Board received two written comments, one of which was from a local unit of a labor organization and the other of which was from the national office of the same labor organization. Both comments focused on the issue of whether the term *guard* in section 3310 of 5 USC, applied by VEOA, should be interpreted to included officers and other employees of the U.S. Capitol Police. The Board received no further public input to assist it in resolving the other issues outlined in the ANPR. Therefore, the Board upon its own further research and study has decided to propose substantive regulations implementing the relevant portions of VEOA. What follows is a discussion of how the Board, tentatively at least, proposes to address the thirteen interpretative issues identified in the ANPR.

Discussion of interpretative issues

Interpretation of term ''competitive service'' and ''excepted service'' as applied to the legislative branch [Issues (1)–(7)].

The ANPR observed that VEOA confers upon covered employees the statutory rights and protections of veterans' preference in appointments to the ''competitive service.'' The ANPR also explained that veterans'' preference rights in the context of a reduction in force, as provided in the application of subchapter I of chapter 35 of title 5, USC and under VEO, are, with one exception, applicable to both the competitive service and to the excepted service. Moreover, OPM's implementing regulations regarding reductions in force, set forth in 5 CFR part 351, are couched in terms that assume application to the ''competitive service'' and the ''excepted service.'' Thus the definitions of these two terms, as applied to the legislative branch by virtue of VEOA, are central to a determination of the substantive veterans' preference rights which now apply to covered employees.

The Board received no written comments in response to a series of questions exploring how to interpret these statutory categories of Federal service. In the absence of illuminating comment or contrary definitions in VEOA, the Board believes that it must define these terms in accordance with their meaning under derivative sections of title 5, USC, made applicable by VEOA. This conclusion is

[1] Pub. L. 105–339, 112 Stat. 3186 (Oct. 31, 1998).

[2] Sen. Rept. 105–340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[3] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5, USC.

supported by a directive in VEOA to issue regulations that are consistent with section 225 of the CAA (2 USC §1361), one of whose subsections embraces a rule of construction that ''definitions and exemptions in the laws made applicable by this [Congressional Accountability] Act shall apply under this [Congressional Accountability] Act.'' This section enables the Board to flesh out the meaning and scope of the various federal employment laws made applicable under the CAA by referring to their respective definitions and exemptions even though they are not expressly cited in the CAA.[4]

Section 2102 of Title 5 USC, as applied under VEOA, presents a three-fold definition of the term ''competitive service'': First, the competitive service consists of ''all civil service positions in the *executive branch*,'' with exceptions for (a) positions specifically excepted from the competitive service by statute , (b) positions requiring Senate confirmation, and (c) positions in the Senior Executive Service.[5] 5 USC §2102(a)(1)(A)–(C) (emphasis added). Second, the competitive service includes ''civil positions not in the executive branch which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(2). Third, the competitive service encompasses those ''positions in the government of the District of Columbia which are specifically included in the competitive service by statute.'' 5 USC §2102(a)(3).

Section 2103 of Title 5 further defines the ''excepted service'' to include all ''civil service positions which are not in the competitive or the Senior Executive Service.'' 5 U.S.C. §2103. And section 2101 of that Title defines the ''civil service'' to include ''all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services.'' 5 U.S.C. §2101(1).

As applied under VEOA, it would seem that section 225 requires the Board to issue regulations that take into account the definitions (and exemptions) accompanying the civil service laws from which the rights and protections of veterans' preference are derived. Accordingly, the Notice proposes a section, in the form of a proviso, requiring that the terms ''competitive service'' and ''excepted service'' in the proposed regulations be defined in reference to their statutory meaning in Title 5, USC. Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC §2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC §2103. Consistent with the definition under section 2103, it is the position of the Board that all ''covered employees''[6] holding civil service positions in the legislative branch are within the definition of excepted service, unless otherwise designated by statute as being competitive service or Senior Executive Service positions.[7]

The Board recognizes that the adoption of these definitions, consistent with the mandate of section 225, yields an unusual result in that no ''covered employee'' in the legislative branch currently satisfies the definition of ''competitive service.'' Moreover, as the substantive protections of veterans' preference in legislative branch appointment apply only to ''competitive service'' positions, the regulations which the Board proposes regarding preference in appointment would with one noted exception, currently apply to no one.[8] However, should Congress, by statute, hereinafter designate any civil service positions in the legislative branch as ''competitive service'' positions, then consistent with the second definition of section 2102(a)(2) and the parallel regulation proposed herein, the substantive regulations regarding veterans' preference in appointment would apply.

Authority of Board to exercise powers and responsibilities similar to that of OPM in executing, administering, and enforcing the federal service system [Issues (8)–(10)].

The ANPR contrasted the regulatory authority vested in OPM and in the Board of Directors of the Office of Compliance with respect to personnel management matters. Congress has established OPM as an independent agency in the executive branch and authorized it to exercise broad powers administering the civil service laws. See 5 U.S.C. §§1101, 1103–04, 1301–04.[9] It has a number of significant responsibilities, including the promulgating of rules and regulations that implement the various civil service laws and the classifying of positions in the executive branch for purposes of appointment, pay, and promotion. In addition, OPM exercises broad administrative powers over the competitive service, including the authority to develop and conduct examinations for the appointment of applicants into the competitive service and the authority to administer rules exempting positions from the competitive service.[10]

The ANPR concluded that VEOA does not vest the Board of Directors with authority comparable to that of OPM to execute, administer, and enforce a civil service system within the legislative branch. This is most clearly evident from the fact that VEOA did not make applicable to the Board the powers and responsibilities exercised by OPM under 5 U.S.C. §§1103–04, 1301–04, among other sections.

Insofar as the Board's authority under VEOA is not coextensive with that of OPM, the ANPR identified two legal implications. First, the Board's power to promulgate veterans' preference regulations that are the ''same as'' those of OPM may be circumscribed to some degree. To illustrate, if OPM has promulgated a regulation under the combined authority of two statutory sections, A and B, but the Board is given authority only under section A, any corresponding regulation proposed by the Board must be tailored to reflect only the standard, directive, or power of section A. Thus, some regulations of OPM may have to be adopted with modifications to reflect their narrower statutory basis. Other OPM regulations may not be adopted at all simply because the Board does not have the underlying statutory authority.

The second implication identified by the ANPR was that where the veterans' preference regulations contemplate a role by OPM,[11] the Board of Directors might not be empowered to exercise a comparable administrative role with respect to personnel matters in the legislative branch.

The Board received no written comments addressing these issues. Upon further study and reflection, the Board has concluded that the if the provisions of VEOA are to be given

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[4] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 CONG. REC. S17603, S17604 (Daily Ed. Nov. 28, 1995)(in proposing the substantive regulations of the FLSA, 29 USC §201 *et seq.*, the Board cited section 225(f)(1) of the CAA as requiring the application of the FLSA definition of ''wages'' in 29 USC §203(m).

[5] These generally are high-level, managerial positions in the executive department whose appointment does not require Senate confirmation. *See* 5 USC §3123 (a)(2), which defines the term ''Senior Executive Service position.''

[6] The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service.

[7] In the ANPR the Board had initially suggested that no ''covered employees'', as defined by VEOA, fall within the meaning of ''excepted service.'' Upon further review of the governing statutes, the Board herein submits that many ''covered employees'' within the legislative branch are encompassed by the term ''excepted service'' as discussed above. The definition of ''covered employee'' under section VEO §4(c)(1) has the same meaning as the term under section 101 of the CAA, 2 USC §1302, which includes any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment. Under VEO §4(c)(5), the following employees are excluded from the term ''covered employee'': (A) presidential appointees confirmed by the Senate, (B) employees appointed by a Member of Congress or by a committee or subcommittee of either House of Congress, and (C) employees holding positions the duties of which are equivalent to those in Senior Executive Service. Consistent with the definition at section 2103 of title 5, USC, any covered employee within the legislative branch who holds a civil service position which is not in the Senior Executive Service and which is not in the competitive service is encompassed within the definition of ''excepted service.'' The regulations which the Board here proposes reflect this interpretation of the governing statutes.

[8] The Board proposes the potential application of the substantive regulations regarding veterans' preference in the appointment process insofar as the Office of the Architect of the Capital, pursuant to the Architect of the Capital Human Resources Act, has established a personnel management system with features analogous to the ''competitive service'' as defined in §2102(a)(2) of Title 5, USC. See Section 1.106 *infra*.

[9] *See also* 5 CFR §5.1, issued by the President, which states that the ''Director, Office of Personnel Management, shall promulgate and enforce regulations necessary to carry out the provisions of the Civil Service Act and the Veterans' Preference Act, as reenacted in Title 5, United States Code, the Civil Services Rules, and all other statutes and Executive orders imposing responsibilities on the Office.''

[10] The following summary explains in part the role of the OPM in the appointment of employees to competitive service positions in executive branch agencies:

''An employee typically becomes a member of the ''competitive service'' by taking an examination administered by the Office of Personnel Management (''OPM''). See 5 U.S.C. §3304 (1976 & Supp. V 1981). An applicant who meets the minimum requirements for entrance to an examination, and who receives a rating of 70 or more on the examination, is known as an ''eligible.'' 5 C.F.R. §§210.102(b)(5), 337.101(a) (1983). OPM is required to enter on a civil service ''register'' the names of all eligibles in accordance with their numerical rankings. 5 C.F.R. §332.401 (1983).

''An agency seeking to hire an employee must submit a request to OPM for a ''certificate'' of eligibles. When OPM receives a request for certification of eligibles, it prepares a certificate by selecting names from the head of the appropriate register. This certificate consists of a sufficient number of names to permit the agency to consider three eligibles for each vacancy, 5 C.F.R. §332.402 (1983), the so-called ''rule-of-three.'' A hiring official from the agency, known as the ''appointing officer,'' 5 C.F.R. §210.102(b)(1) (1983), is obliged to fill each vacancy ''with sole regard to merit and fitness'' from the three eligibles ranking highest on the certificate who are available for appointment. 5 C.F.R. §332.404 (1983).'' *Hondros* v. *Unites States Civil Service Commission*, 720 F.2d 278, 280–82 (3d Cir. 1983) (footnotes omitted).

[11] *See, e.g.*, 5 CFR §§330.401 (OPM's role in competitive examination in restricted positions), 330.403 (OPM's role in filling restricted positions by noncompetitive action of a nonpreference eligible), 332.401 (OPM's responsibility to maintain registers of eligibles), 337.101 (OPM's role in rating applicants).

their plain meaning, the Board must propose only those OPM regulations, modified as necessary, that can be linked to those statutory sections whose rights and protections have been made applicable to covered employees in the legislative branch. The Board further concludes that VEOA does not vest the Board of Directors of the Office of Compliance with the broad-ranging authority to execute, administer, and enforce a civil service system in the legislative branch.[12] Accordingly, in certain of the proposed regulations the references to OPM have been deleted. To the extent that the executive branch regulations directed OPM to exercise certain responsibilities, including setting of standards, exercising review of agency determinations, and engaging in oversight, those duties have been eliminated in the proposed regulations.

Interpretation of provision restricting certain positions, including guards, to preference eligibles [Issue (11)].

With respect to ''competitive service'' positions restricted to preference eligible individuals under 5 USC §3310, as applied by VEOA, namely guards, elevator operators, messengers, and custodians, the Board sought information and comment on a series of issues, including the identity, in the legislative branch, of guard, elevator operator, messenger, and custodian positions within the meaning of these statutory terms. A specific question was posed whether police officers and other employees of the United State Capitol Police should be considered ''guards.'' As noted previously, the only two written comments received in response to the ANPR addressed this latter issue.

Both comments argued that the term ''guard'' should not be interpreted to include officers of the U.S. Capitol Police. One comment contrasted the use of key terms within chapter 33 of Title 5, USC, which governs the examination, selection, and placement of personnel in the competitive service and from which selected provisions made applicable under VEOA to the legislative branch are drawn. Section 3310, which is made applicable by VEOA, uses the term ''guard.'' In contrast, section 3307, which addresses maximum-age requirements in the competitive service and which is not made applicable under VEOA, refers to ''law enforcement officer.'' Because of this differentiation within the same chapter of the U.S. Code, the commenter suggests that Congress could not have intended to treat a ''guard'' under section 3310 as analogous to a ''law enforcement officer.'' Since U.S. Capitol police officers have the authority of law enforcement officers (see 40 USC §§212–212a), they are not ''guards'' for purposes of section 3310 as applied.

The other comment makes a similar distinction between guards and law enforcement officers, relying upon the interpretations of OPM, which is responsible for administering the Federal government's occupation classification system. The commenter cites to two OPM publications, *Grade Evaluation Guide for Police and Security Guard Positions, GS–0083/GS–0085* and *Digest of Significant Classification Decisions and Opinions*, No. 8, April 1986. Together, these publications establish a distinction between police officers and guards in the executive branch.

The Board finds that the comments make a persuasive case for not equating officers of the U.S. Capitol Police with ''guards'' under section 3310 as applied by VEOA. The proposed rule includes a provision that explicitly excludes law enforcement officer positions of the U.S. Capitol Police from the substantive regulations implementing section 3310 as applied by VEOA.

Executive branch regulations that either should not be adopted or should be adopted with modification [Issues (12)–(13)].

The Board received no written comments addressing the questions posed in the ANPR as to which substantive regulations should not be adopted because they are based on statutory provisions that have not been made applicable under VEOA. Similarly, no comments were received on what modifications should be adopted to make the regulations more effective for the implementation of the rights and protections made applicable under VEOA.

Nevertheless, as explained above in the discussion concerning its authority to exercise powers comparable to OPM's, the Board has concluded that it may not propose regulations that are not based on statutory rights and protections made applicable under VEOA. Conversely, the Board believes that the regulations proposed in this Notice most appropriately fulfill the statutory mandate to adopt regulations that are the ''same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions'' of VEOA. To the extent that modifications are being proposed, the Board believes that they are warranted to reflect the more limited statutory authority which VEOA vests in the Board.

Special provision for coverage of Architect of the Capitol

While drafting the proposed regulations following the receipt of written comments to the ANPR, it came to the attention of the Board that the Office of the Architect of the Capitol has been under a special statutory mandate with respect to managing and supervising its human resources. Because AOC is part of the legislative branch, it has not generally been subject to many of the statutes that regulate personnel policy for Federal agencies. As a consequence, the General Accounting Office reported in 1994 that AOC's personnel system was deficient in many respects. GAO, ''Federal Personnel: Architect of the Capitol's System Needs Improvement,'' B–256160 (April 29, 1994). Congress responded by enacting the Architect of the Capitol Human Resources Act (AOCHRA). P.L. 103–283, 108 Stat. 1444 (July 22, 1994), codified at 40 U.S.C. §166b–7. This law did not directly bring the AOC within the purview of the various Federal personnel laws. Rather, the AOC was directed to establish its own personnel management system. As stated in AOCHRA, Congress found that the Architect should ''develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations,'' and to that end, the Architect was directed ''to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.'' 40 U.S.C. §166b–7(b)(1),(2). The law then sets out in broad terms eight subject areas that a model personnel management system must address, leaving it to the Architect to develop a detailed plan for implementing these model policy goals no later than fifteen months after enactment. 40 U.S.C. §166b–7(c)(2)(A)–(H), (d)(1)(B),(C). Among these objectives is the requirement that the personnel management system ''ensure[] that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of *merit* and fitness after fair and equitable consideration of all applicants and employees through *open competition*.'' 40 U.S.C. §166b–7(c)(2)(A) (emphasis added).

The notion of merit selection based on open competition, of course, is a bedrock principle of the federal civil service system, particularly its competitive service component, as described in the ANPR, 146 Cong. Rec. S864 (Daily ed. February 29, 2000)(ANPR). Thus, instead of formally placing the job positions of the Architect's Office within the federal competitive service, which is contemplated under 5 U.S.C. §2101(a)(2),[13] Congress authorized the Architect's Office to devise its own personnel system independent of the competitive service (and of the oversight responsibilities of the Office of Personnel Management) but consistent with its animating principles.

AOCHRA did not specifically mandate that the Architect's Office incorporate veterans' preference principles into its merit selection system. And there is nothing in the public record to indicate that the AOC in practice affords qualified veterans some form of preference in the selection process. However, it seems equally true that there is nothing in AOCHRA to preclude the Architect from taking veterans' preference into account in making appointments, promotions, and assignments, the same way that an executive branch agency must afford veterans' preference to appointments to positions in the competitive service. Thus, the issue arises whether VEOA may be read *in pari materia* with AOCHRA, so as to make the substantive VEOA regulations concerning appointments applicable to AOC's merit selection system notwithstanding the fact that job positions subject to that system are not technically part of the ''competitive service.''

As noted above, the Board has tentatively concluded that it must limit the application of the substantive, veterans' preference appointment regulations to those legislative branch positions that are within the ''competitive service,'' as the latter term is defined in 5 U.S.C. §2102. As a practical matter, this may significantly limit the group of ''covered employees'' who will benefit from VEOA, since it appears that the vast majority of ''covered employees'' hold civil service positions in the legislative branch, including those in the Office of AOC, that are within the definition of excepted service.

However, the congressional policy declared in the enactment of AOCHRA may warrant the promulgation of a special regulation tailoring the application of the VEOA appointment regulations to positions in Office of the AOC, for it is a general rule of statutory construction that statutes on the same subject matter are to be construed together.[14] In this case, the specific obligations under VEOA to afford veterans' preference in connection with merit appointments would be interpreted in conjunction with the preexisting, general obligations under AOCHRA to establish a merit selection personnel system. If read together, the two statutes would seem to authorize the application of substantive VEOA regulations, at least those governing appointments, insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides

[12] *Compare* Notice of Proposed Rulemaking [Fair Labor Standards Act regulations under Congressional Accountability Act], 141 Cong. Rec. S17603, S17604 (Daily Ed. Nov. 28, 1995)(explaining that because the CAA did not incorporate the notice posting and recordkeeping requirements of section 11 of the FLSA, 29 USC §211, the Board determined that it may not impose by substantive regulations such requirements on employing offices).

[13] ''The 'competitive service' consists of—. . .''(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute;''

[14] N. Singer, Statutes and Statutory Construction §51.02, at 176–178 (6th ed. 2000). See, e.g., *United States* v. *Stewart*, 311 U.S. 60 (1940) (''It is clear that 'all acts in pari materia are to be taken together, as if they were one law.' '').

for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.[15]

The Board has made no final determination on the soundness of this interpretation, in part due the fact that this has insufficient information on the elements of the merit selection system which the AOC has established under AOCHRA. The Board therefore believes that it is appropriate to solicit comments on what are the elements of the AOC's current merit selection system established under 40 U.S.C. §166b–7(c)(2)(A), and on whether in particular the AOC has a policy of giving preference to qualified veterans. Aside from the factual issue, the Board believes that comments should be solicited on the legal issue whether VEOA may be interpreted *in pari materia* with AOCHRA. In addition, the Board invites comments on the related question of how substantive regulations promulgated under VEOA may be applied to AOC's personnel management system, even assuming that it currently does not include a veterans' preference component, being mindful that the Board is authorized under VEOA to propose modifications for the more effective implementation of the rights and protections under VEOA. 2 U.S.C. §1316a(c)(4)(B).

In order to frame the issues for comment, the Board has decided to include in this NPR a proposed new section §1.106, which would apply the appointment regulations governing veterans' preference to appointments made pursuant to the merit selection system under AOCHRA. This section would apply the proposed regulations notwithstanding the fact that the job positions within the AOCHRA merit selection system are not technically within the ''competitive service.'' Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol would be required to afford to a covered employee, including an applicant veterans' preference, in a manner and to the extent consistent with these proposed regulations.

Recommended Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 13th day of November, 2001.

SUSAN S. ROBFOGEL,
Chair of the Board,
Office of Compliance.

[15] CF. *United States* v. *Jefferson Electric Mfg. Co.*, 291 U.S. 386, 396 (1934) (''As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and the carried into effect comformably to it, excepting as a different purpose is plainly shown.'').

EXTENSION OF RIGHTS AND PROTECTIONS RELATING TO VETERANS' PREFERENCE UNDER TITLE 5, UNITED STATES CODE, TO COVERED EMPLOYEES OF THE LEGISLATIVE BRANCH (SECTION 4(C) OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Exclusion
1.104 Adoption of regulations
1.105 Coordination with Section 225 of Congressional Accountability Act
1.106 Application of regulations to certain positions of the Office of the Architect of the Capitol

§ 1.101. Purpose and scope

(a) *Section 4(c) of the VEOA.* The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 USC, to covered employees within the legislative branch.

(b) *Purpose and scope of regulations.* The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA.

§ 1.102. Definitions

Except as otherwise provided in these regulations, as used in these regulations:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *VEOA* means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(c) Except as provided by §1.103, the term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) *Board* means the Board of Directors of the Office of Compliance.

(k) *Office* means the Office of Compliance.

(l) *General Counsel* means the General Counsel of the Office of Compliance.

(m) The term *agency* means employing office as defined by subsection (i).

§ 1.103. Exclusions from definition of covered employee

The term *covered employee* does not include an employee

(a) whose appointment is made by the President with the advice and consent of the Senate;

(b) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or,

(c) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

§ 1.104. Authority of the Board

(a) *Adoption of regulations.* Section 4(c)(4)(A) of VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, 4(c)(4)(B) of VEOA directs the Board to promulgate regulations that are ''the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)'' of section 4(c) of VEOA that need be adopted.

(b) *Technical and nomenclature changes.* In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the executive branch. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the executive branch from which they are derived except to the extent that a modification is necessary to more effectively implement the rights and protections made applicable under VEOA.

(c) *Modification of substantive regulations.* As a qualification of the statutory obligation to issue regulations that are ''the same as the most substantive regulations (applicable with respect to the executive branch),'' section 4(c)(4)(B) of VEOA authorizes the Board to ''determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under'' section 4(c) of VEOA. In examining the relevant regulations of the executive branch, which were

promulgated by the Office of Personnel Management, the Board has concluded that a number of sections were issued under a combination of statutory authorities, some of which were made applicable under section 4(c)(2) of VEOA and some of which were not made applicable under that section. The Board has accordingly determined that given the selective application of statutory provisions, some regulations of the executive branch are not applicable to the legislative branch and some regulations must be modified in order to be made applicable.

(d) *Retention of section numbering*. Except for the sections in Part 1, the regulations adopted herein are numbered to correspond with the section numbering of the substantive regulations of the executive branch as they appear in title 5 of the Code of Federal Regulations (CFR) on which they are based.

§ 1.105. Coordination with Section 225 of Congressional Accountability Act

(a) *Statutory directive*. Section 4(c)(4)(D) of the VEOA requires that regulations promulgated must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be construed to authorize enforcement of the CAA by the executive branch.

(b) *Provisos necessary to satisfy statutory directive*. The Board determines that in order for certain regulations applied under VEOA to be consistent with subsections (f)(1) and (f)(3) of section 225 of the CAA, the such regulations shall be subject to the following provisos:

(1) Where an applied regulation refers to the ''competitive service,'' such term shall have the meaning as provided in 5 USC § 2102(a)(2). Where an applied regulation refers to the ''exempted service,'' such term shall have the meaning as provided in 5 USC § 2103.

(2) Where an applied regulation refers to the ''excepted service,'' such term shall have the meaning as provided in 5 USC § 2103. Consistent with the definition provided by section 2103, the Board determines that ''excepted service'' encompasses all civil service positions within the legislative branch which are neither in the ''competitive service'' nor have duties that are equivalent to the Senior Executive Service as those terms are defined in Title 5, USC.

§ 1.106. Application of regulations to certain positions of the Office of the Architect of the Capitol

(a) The Office of the Architect of the Capitol, pursuant to the provisions of the Architect of the Capitol Human Resources Act (AOCHRA), P.L. 103–283, 108 Stat. 1444 (July 22, 1994), as codified and amended in 40 USC § 166b–7, is required to establish a personnel management system that in part ''ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.'' 40 USC § 166b–7(c)(2)(A).

(b) Insofar as AOCHRA imposes obligations on the Office of the Architect of the Capitol to establish a personnel management system which at a minimum provides for appointment, promotion and assignment on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition, the Architect of the Capitol shall provide veterans' preference to a covered employee, including an applicant, in a manner and to the extent consistent with these regulations.

PART 211—VETERAN PREFERENCE

Sec.
211.101 Purpose
211.102 Definitions
211.103 Administration of preference

§ 211.101. Purpose

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment in the legislative branch. (5 U.S.C. 2108, as applied by VEOA)

§ 211.102. Definitions

For purposes of preference in Federal employment the following definitions apply:

(a) Veteran means a person who was separated with an honorable discharge or under honorable conditions from active duty in the armed forces performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or,

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976.

(b) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(c) Preference eligible means veterans, spouses, widows, or mothers who meet the definition of ''preference eligible'' in 5 U.S.C. 2108. Preference eligibles in the competitive service are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force in positions in either the competitive service or in the excepted service (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

§ 211.103. Administration of preference

Agencies are responsible for making all preference determinations.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL) IN THE COMPETITIVE SERVICE

Sec.
330.401 Competitive examination
330.402 Direct recruitment

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401. Competitive examination

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger in the competitive service (referred to hereinafter in this subpart as restricted positions), competition shall be restricted to preference eligibles as long as preference eligibles are available. For purposes of this part, the term *guard* does not include law enforcement officer positions of the U.S. Capitol Police Board.

§ 330.402. Direct recruitment

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

PART 332—RECRUITMENT AND SELECTION IN THE COMPETITIVE SERVICE THROUGH COMPETITIVE EXAMINATION

Sec.
332.401 Order on registers

Subpart D—Consideration for Appointment

§ 332.401. Order on registers

Subject to apportionment, residence, and other requirements of law, the names of eligibles shall be entered on the appropriate register in accordance with their numerical ratings, except that the names of:

(a) Preference eligibles shall be entered in accordance with their augmented ratings and ahead of others having the same rating; and

(b) Preference eligibles who have a compensable service-connected disability of 10 percent or more shall be entered at the top of the register in the order of their ratings unless the register is for professional or scientific positions in pay positions comparable to GS–9 and above and in comparable pay levels under other pay-fixing authorities.

PART 337—EXAMINING SYSTEM FOR THE COMPETITIVE SERVICE

Sec.
Sec. 337.101 Rating applicants

Subpart A—General Provisions

§ 337.101. Rating applicants

(a) The relative weights shall be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) There shall be added to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; as applied by VEOA and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)–(G) of that title, as applied by VEOA.

(c) When experience is a factor in determining eligibility, a preference eligible shall be credited with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. Time spent in the military service shall be credited according to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS IN THE COMPETITIVE SERVICE

Sec.
Sec. 339.204 Waiver of standards and requirements

Subpart B—Physical and Medical Qualifications

§ 339.204. Waiver of standards and requirements

Agencies must waive a medical standard or physical requirement when there is sufficient evidence that an applicant or employee, with or without reasonable accommodation, can perform the essential duties of the position without endangering the health and safety of the individual or others.

PART 351—REDUCTION IN FORCE IN THE COMPETITIVE SERVICE AND THE EXCEPTED SERVICE

Sec.
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Subpart B—General Provisions

§ 351.201. Use of regulations

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

§ 351.202. Coverage

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this part applies to covered employees as defined by section 1.102(c) of these Regulations.

(b) *Employees excluded.* This part does not apply to an employee who is within the exclusion set forth in section 1.103 of these Regulations.

(c) *Actions excluded.* This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

(3) A change to lower grade based on reclassification of an employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days. This exception ends at the completion of the reduction in force.

(4) Placement of an employee serving on an intermittent, part-time, on-call, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at time of appointment.

(5) A change in an employee's work schedule from other-than-full-time to full-time. (A change from full-time to other than full-time for a reason covered in Sec. 351.201(a)(2) is covered by this part.)

§ 351.203. Definitions

In this part:

Competing employee means an employee in tenure group I, II, or III.

Current rating of record is the rating of record for the most recently completed appraisal period as provided in Sec. 351.504(b)(3).

Days means calendar days.

Function means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

Furlough under this part means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a discontinuous basis, but not more than 1 year.

Local commuting area means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

Modal rating is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

Rating of record means the officially designated performance rating, as provided for in the agency's appraisal system.

Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Representative rate means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position.

Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

§ 351.204. Responsibility of agency

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction force is necessary.

Subpart C—Transfer of Function

§ 351.301. Applicability

(a) This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, reorganization plan, or other authority.

(b) In a transfer of function, the function must cease in the losing competitive area and continue in an identical form in the gaining competitive area (i.e., in the gaining competitive area, the function continues to be carried out by competing employees rather than by noncompeting employees).

§ 351.302. Transfer of employees

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to

transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR part 752 if it chooses to separate an employee who declines to transfer from his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

(f) An agency may not separate an employee who declines to transfer with the function any sooner than it transfers employees who chose to transfer with the function to the gaining competitive area.

(g) Agencies may ask employees in a canvass letter whether the employee wishes to transfer with the function when the function transfers to a different local commuting area. The canvass letter must give the employee information concerning entitlements available to the employee if the employee accepts the offer to transfer, and if the employee declines the offer to transfer. An employee may later change and initial acceptance offer without penalty. However, an employee may not later change an initial declination of the offer to transfer.

§ 351.303. Identification of positions with a transferring function

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. A competing employee is identified with the transferring function on the basis of the employee's official position. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(3) In determining what percentage of time an employee performs a function in the employee's official position, the agency may supplement the employee's official position description by the use of appropriate records (e.g., work reports, organizational time logs, work schedules, etc.).

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

Subpart D—Scope of Competition

§ 351.401. Determining retention standing

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in subpart E of this part.

§ 351.402. Competitive area

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

§ 351.403. Competitive level

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption.

(2) Competitive level determinations are based on each employee's official position, not the employee's personal qualifications.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) *By service*. Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) *By appointment authority*. Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) *By pay schedule*. Separate levels shall be established for positions under different pay schedules.

(4) *By work schedule*. Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) *By trainee status*. Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in Sec. 351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

§ 351.404. Retention register

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level;

(2) Temporarily promoted from the competitive level by temporary or term promotion.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph b(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 in this chapter.

§ 351.405. Demoted employees

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501. Order of retention—competitive service

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under Sec. 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. An employee who acquires competitive status and satisfies the service requirement for career tenure when the employee's position is brought into the competitive service is in group I as soon as the employee completes any required probationary period for initial appointment.

(2) Group II includes each career-conditional employee, and each employee serving a probationary period.

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, as applied by VEOA.

§ 351.502. Order of retention—excepted service

(a) Competing employees shall be classified on a retention register in tenure groups on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as set forth under Sec. 351.501(a) for competing employees in the competitive service.

(b) Groups are defined as follows:

(1) Group I includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period.

(2) Group II includes each employee:

(i) Serving a trial period; or

(ii) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

(3) Group III includes each employee:

(i) Whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent;

(ii) Whose appointment has a specific time limitation of more than 1 year; or

(iii) Who is currently employed under a temporary appointment limited to 1 year or less, but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

§ 351.503. Length of service

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under Sec. 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under Sec. 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504. Credit for performance

(a) *Ratings used.* Only ratings of record as defined in Sec. 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(b)(1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4–year period prior to the date of issuance of reduction in force notices, except as otherwise provided in paragraphs (b)(2) and (c) of this section.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the 4–year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures, and must also be on record (i.e., the rating of record is available for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4–year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the 4–year period prior to the date of issuance of reduction in force notices or the 4–year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined as appropriate, and as follows:

(1) An employee who has not received any rating of record during the 4–year period shall receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(2) An employee who has received at least one but fewer than three previous ratings of record during the 4–year period shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two (and rounded in the case of a fraction to the next higher whole number) to determine the amount of additional retention service credit. If an employee has received only one actual rating of record during the period, its value is the amount of additional retention service credit provided.

§ 351.505. Records

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by an employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§ 351.506. Effective date of retention standing

Except for applying the performance factor as provided in Sec. 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in Sec. 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee retained in a competitive level as an exception under Sec. 351.606(b), Sec. 351.607, or Sec. 351.608, is determined as of the date the employee would have been released had the exception not been used. The retention standing of each employee retained under any of these provisions remains fixed until completion of the reduction in force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§ 351.601. Order of release from competitive level

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under Sec. 351.606 when an employee is retained under a mandatory exception or under Sec. 351.806 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under Sec. 351.607 when an employee is retained under a permissive continuing exception or under Sec. 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.602. Prohibitions

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion.

§ 351.603. Actions subsequent to release from competitive level

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

§ 351.604. Use of furlough

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with highest standing employee.

§ 351.605. Liquidation provisions

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with Sec. 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in Sec. 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply Secs. 351.607 and 351.608 in a liquidation.

Sec. 351.606. Mandatory exceptions

(a) Armed Forces restoration rights. When an agency applies Sec. 351.601 or Sec. 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) Use of annual leave to reach initial eligibility for retirement or continuance of health benefits. (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse action, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(3) An employee retained under paragraph (b) this section must be covered by chapter 63 of title 5, United States Code.

(4) An agency may not retain an employee under this section past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(5) Except as permitted by 5 CFR 351.608(d), an agency may not approve an employee's use of any other type of leave after the employee has been retained under a temporary exception authorized by paragraph (b) of this section.

(6) Annual leave for purposes of paragraph (b) of this section is described in Sec. 630.212 of Title 5, CFR.

(c) Documentation. Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by Sec. 351.601 or Sec. 351.605.

§ 351.607. Permissive continuing exceptions

An agency may make exception to the order of release in Sec. 351.601 and to the action provisions of Sec. 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608. Permissive temporary exceptions

(a) *General*. (1) In accordance with this section, an agency may make a temporary exception to the order of release in Sec. 351.601, and to the action provisions of Sec. 351.603, when needed to retain an employee after the effective date of a reduction in force. Except as otherwise provided in paragraphs (c) and (e) of this section, an agency may not make a temporary exception for more than 90 days.

(2) After the effective date of a reduction in force action, an agency may not amend or cancel the reduction in force notice of an employee retained under a temporary exception so as to avoid completion of the reduction in force action.

(b) *Undue interruption*. An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation*. An agency may make a temporary exception to satisfy a Government obligation to the retained employee without regard to the 90–day limit set forth under paragraph (a)(1) of this section.

(d) *Sick leave*. An agency may make a temporary exception to retain on sick leave a lower standing employee covered by an applicable leave system for Federal employees, who is on approved sick leave on the effective date of the reduction in force, for a period not to exceed the date the employee's sick leave is exhausted. Use of sick leave for this purpose must be in accordance with the requirements in part 630, subpart D of this chapter (or other applicable leave system for Federal employees). An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (d).

(e)(1) An agency may make a temporary exception to retain on accrued annual leave a lower standing employee who:

(i) Is being involuntarily separated under this part;

(ii) Is covered by a Federal leave system under authority other than chapter 63 of title 5, United States Code; and,

(iii) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority), and/or establish eligibility under 5 U.S.C. 8905 (or other authority) to carry health benefits coverage into retirement during the period represented by the amount of the employee's accrued annual leave.

(2) An agency may not approve an employee's use of any other type of leave after the employee has been retained under this paragraph (e).

(3) This exception may not exceed the date the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements.

(4) Accrued annual leave includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. When approving a temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status.

(f) *Other exceptions*. An agency may make a temporary exception under this section to extend an employee's separation date beyond the effective date of the reduction in force when the temporary retention of a lower standing employee does not adversely affect the right of any higher standing employee who is released ahead of the lower standing employee. The agency may establish a maximum number of days, up to 90 days, for which an exception may be approved.

(g) *Notice to employees*. When an agency approves an exception for more than 30 days, it must:

(1) Notify in writing each higher standing employee in the same competitive level reached for release of the reasons for the exception and the date the lower standing employee's retention will end; and

(2) List opposite the employee's name on the retention register the reasons for the exception and the date the employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement

(a) General. When a group I or II competitive service employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive position which requires no reduction, or the least possible reduction, in representative rate. The employee must be qualified for the offered position. The offered position shall be in the same competitive area, last at least 3 months, and have the same type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) as the position from which the employee is released. Upon accepting an offer of assignment, or displacing another employee under this part, an employee retains the same status and tenure in the new position. The promotion potential of the offered position is not a consideration in determining an employee's right of assignment.

(b) Lower subgroup—bumping. A released employee shall be assigned in accordance with paragraph (a) of this section and bump to a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group; and

(2) Is no more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) Same subgroup—retreating. A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup;

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in Sec. 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

(d) Limitation. An employee with a current annual performance rating of record of minimally successful (Level 2) or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating of record no higher than minimally successful (Level 2) or equivalent.

(e) Pay rates. (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force, assignment rights shall be determined on the basis of the new pay rates.

(f)(1) In determining applicable grades (or grade intervals) under Secs. 351. 701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS–2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

§351.702. Qualifications for assignment

(a) Except as provided in Sec. 351.703, an employee is qualified for assignment under Sec. 351.701 if the employee:

(1) Meets the standards and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position without undue interruption. This determination includes recency of experience, when appropriate.

(b) An employee who is released from a competitive level during a leave of absence because of a corpensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury.

(c) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the employee of the reasons for the determination.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen through standard selection procedures. To be considered qualified for assignment under Sec. 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e)(1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§351.703. Exception to qualifications

An agency may assign an employee to a vacant position under Sec. 351.201(b) or Sec. 351.701 of this part if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§351.704. Rights and prohibitions

(a)(1) An agency may satisfy an employee's right to assignment under Sec. 351.701 by assignment to a vacant position under Sec. 351.201(b), or by assignment under any applicable administrative assignment provisions of Sec. 351.705, to a position having a representative rate equal to that the employee would be entitled under Sec. 351.701. An agency may also offer an employee assignment under Sec. 351.201(b) to a vacant position in lieu of separation by reduction in force under 5 CFR part 351. Any offer of assignment under Sec. 351.201(b) to a vacant position must meet the requirements set forth under Sec. 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section 351.701 does not:

(1) Authorize or permit an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

(4) Authorize or permit an agency to assign a competing employee to a temporary position (i.e., a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force under this part when the employee has no right to a position under Sec. 351.701 or Sec. 351.704(a)(1) of this part. This option does not preclude an agency from, as an alternative, also using a temporary position to reemploy a competing employee following separation by reduction in force under this part.

(5) Authorize or permit an agency to displace an employee or to satisfy a competing employee's right to assignment by assigning the employee to a position with a different type of work schedule (e.g., full-time, part-time, intermittent, or seasonal) than the position from which the employee is released.

§351.705. Administrative assignment

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with Sec. 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee is subgroup III–B consistent with Sec. 351.701; or

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under Sec. 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§351.801. Notice period

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), as applied by the CAA, of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of Secs. 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, an agency may provide a notice period of less than 60 days, but the shortened notice period must cover at least 30 full days before the effective date of release.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under Sec. 351.607 or Sec. 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802. Content of notice

(a)(1) The action to be taken, the reasons for the action, and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under Sec. 351.607 or Sec. 351.608;

(5) Information on reemployment rights, except as permitted by Sec. 351.803(a); and

(6) The employee's right, as applicable, to grieve under a negotiated grievance procedure.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of retention regulations found in part 351 of this chapter.

§ 351.803. Notice of eligibility for reemployment and other placement assistance

(a) The employee must be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area);

(2) The effective date of the separations.

§ 351.804. Expiration of notice

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

§ 351.805. New notice required

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give an employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

§ 351.806. Status during notice period

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§ 351.807. Certification of Expected Separation

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

Subpart I—Appeals and Corrective Action

§ 351.902. Correction by agency

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

INTERIM SECTION 102(b) REPORT: ELECTRONIC INFORMATION SYSTEMS

[Review and Report on the Applicability to the Legislative Branch of Section 508 of the Rehabilitation Act of 1973, as Amended; submitted by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995, 2 U.S.C. 1302(b), November 13, 2001]

I. INTRODUCTION

The Board of Directors (''the Board'') is charged with monitoring Federal law relating to terms and conditions of employment and access to public services and accommodations. The Congressional Accountability Act instructs the Board to report to Congress biannually: (1) whether or not those provisions are applicable to the Legislative Branch; and (2) whether inapplicable provisions should be made applicable to the Legislative Branch. Section 102(b)(1)&(2) of the Congressional Accountability Act (CAA), (2 U.S.C. 1302(b)(1)&(2)). However, the CAA does not prohibit the Board from reporting to Congress on an interim basis, in appropriate circumstances, when such a report would best effectuate the purposes of the statute.

II. SECTION 508, REHABILITATION ACT AMENDMENTS OF 1998

The Board's December 31, 2000 Report did not address certain 1998 amendments[1] to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), which subsequently were implemented by Executive Branch regulation in June 2001.[2] The essence of these amendments requires that Executive Branch agencies provide their disabled employees and disabled members of the public with access to an agency's electronic data and information. For example, visually impaired persons must be able to utilize agency web sites through software that converts visual information to an effective audio format. In those rare instances where such compliance would impose an undue burden on an agency or department, Section 508 permits delivery of those services in alternate manner. Section 508 does not apply to the employing offices covered by the CAA, or to the Congressional instrumentalities GAO, GPO, or Library of Congress.[3]

The section 508 amendments originated in Senate Bill S. 1579. The Labor and Human Resources Committee's Report articulated that this legislation stemmed primarily from the need to ''reestablish[] and realign[] the national workforce development and training system to make it more user-friendly and accessible.'' Sen. Rept. 105–166 at 2 (Mar. 2, 1998). Thus, the legislation was primarily perceived as a vocational rehabilitation and training matter. However, there is no doubt that the particular purpose of the

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[1] P.L. 105–220, 112 Stat. 1202, § 408(a) (Aug. 7, 1998).

[2] 65 FR 80500 (Dec. 21, 2000), codified at, 36 CFR part 1194 (2001).

[3] The CAA applies the Americans with Disabilities Act (''ADA'') directly to these instrumentalities. Some of the other statutes referenced in the CAA, such as Occupational Safety & Health Act (''OSHA'') and the Family Medical Leave Act ('' FMLA''), are applied to GAO and the Library of Congress through the CAA, as regulated by the Office of Compliance. The Office has no regulatory authority of any kind with respect to GPO.

proposed amendments to section 508 was to: require[] each Federal agency to procure, maintain, and use electronic and information technology that allows individuals with disabilities the same access to information technology as individuals without disabilities. Id. at 58.

The section 508 amendments require that employees and the general public, irrespective of disability, have comparable access to electronic information systems. The Senate proposal was incorporated as part of the Senate amendments to H.R. 1385, the Workforce Investment Act of 1998 and largely adopted in the Conference Report.[4]

III. THE OFFICE'S EXISTING EFFORTS TO ENHANCE ELECTRONIC INFORMATION ACCESS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

The Office of Compliance already maintains an active role regarding employee accessibility to electronic information systems through the requirements of the Americans With Disabilities Act of 1990 (ADA), which is applied to employing offices of the Congress in the Congressional Accountability Act (''Act''). Section 201(a) of the Act (2 U.S.C. §1311(a)) states, in relevant part, that ''[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on . . . (3) disability within the meaning of . . . sections 102 through 104 of the . . . [ADA]''.[5]

Section 210 of the Act (2 U.S.C. §1331) applies the ADA's public access requirements to employing offices, and authorizes ADA court proceedings regarding alleged violations by GAO, GPO, and the Library of Congress. The executive branch regulations implementing the public access provisions of the ADA have included the requirements at 28 CFR §35.160 that:

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.

28 CFR §36.302 also requires in relevant part:

(a) GENERAL. A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. . . .

In 28 CFR §36.303, the concept of ''auxiliary aids and services'' is set forth as one form of ''reasonable accommodation'':

(a) GENERAL. A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the . . . services . . . being offered or would result in an undue burden. . . .

(b) EXAMPLES. The term ''auxiliary aids and services'' includes:

(1) Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings,

Brailled materials, large printed materials, or other effective methods of making visually delivered materials available to individuals with visual impairments; . . . .

(c) EFFECTIVE COMMUNICATION. A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

These ADA regulations, already promulgated by the Attorney General pursuant to Title II and Title III of the ADA, and in use in the executive branch, were among those which the Board of Directors of the Office of Compliance submitted to the Senate on January 7, 1997 for final adoption as regulations under the Congressional Accountability Act. The same proposed regulations were submitted to the House two days later. Congress did not approve these proposed regulations. Consequently, pursuant to section 411 of the CAA (2 U.S.C. §1411), the Executive Branch regulations became applicable ''by default'' to all employing offices under the CAA.

In December, 1998, the General Counsel of the Office of Compliance submitted a Report on Inspections for Compliance with the Americans with Disabilities Act, as required by section 210(f)(2) of the CAA. (2 U.S.C. §1331(f)(2)). The Report outlined the requirements of the ADA, including the fact that ''[t]he ADA requires that aids to communication, called auxiliary aids, be furnished to persons with disabilities when necessary for effective communication.'' Id. at 8. The Report (at 16) also highlighted the role of electronic communication in this effort:

Legislative Information on the Internet.—A large amount of legislative information is now available on the Internet. The Library of Congress's Thomas site (http://www.loc.gov), for example, has the text of bills and information about their status; copies of the Congressional Record; committee schedules, reports, and selected hearing transcripts; House and Senate Roll Call Votes; and links to other sites with legislative information. Most Senators and Members of the House of Representatives also maintain web sites as a means of communicating with their constituents.

Persons with disabilities are often avid users of the Internet and other electronic information services. In addition to making legislative information readily available to individuals with hearing or mobility impairments, the Internet also serves people who are blind. Text on the Internet can be read aloud by a computer equipped with a speech synthesizer and text-to-speech software or can be converted to a Braille format.

The usability of the web site for a person who is blind depends on its design. For example, if image maps are used on a Member's web site, there should be an alternate method of selecting options so the text-to-speech software can process the information. Unless this is done, it will be difficult or impossible for a blind user to get access to information on the site. . . .

In the past several years, the Office staff has also responded to a number of inquiries from employing offices about the 1998 section 508 amendments to the Rehabilitation Act. The Office has informed offices regarding the section 508 required amendments in the Federal Acquisition Regulation (FAR), and has further explained that ''the public access provisions of the CAA do not apply section 508 of the Rehabilitation Act to the entities of the Legislative Branch. . . .''

Because the CAA does not give the Office or its General Counsel authority to require that electronic information systems meet applicable accessibility standards absent a specific complaint from an individual with a particular disability, our ADA enforcement activities—as distinct from our educational activities—have been necessarily restricted and reactive rather than pro-active.

IV. THE IMPACT OF SECTION 508'S IMPLEMENTING REGULATIONS

On December 21, 2000, the Architectural and Transportation Barriers Compliance Safety Board published its final regulations including ''standards setting forth a definition of electronic and information technology and the technical and functional performance criteria necessary for such technology to comply with section 508.'' See note 2 supra. The effective date of those regulations was February 20, 2001. The final amendments to the Federal Acquisition Regulation implementing section 508 were published on April 25, 2001, and went into effect as of June 25, 2001.[6] There now exists a web site concerning section 508 standards, issues, and developments in the executive branch: www.section508.gov. Individuals with specific questions are encouraged to visit that site.

There are substantial differences between the standards mandated by Title II of the ADA and by Section 508 of the Rehabilitation Act. Although the two regulatory schemes overlap, there is little question that Section 508 applies significantly more stringent technical requirements for electronic information technology accessibility. While the ADA requires that public entities—including employing offices under the CAA—provide reasonably equivalent access to information, the methodology for delivering that access remains flexible. Thus, for example, if a sight impaired employee or member of the public cannot access material on an employing office's web site, under ADA that office can satisfy its responsibility to either individual by having the relevant material read to that person. Under Section 508, however, an agency of the executive branch must offer technology through its web site that allows all individuals, with or without disabilities, directly to obtain the information through the site itself. For instance, an agency must upgrade its site with a capacity to reformat the information for sight impaired individuals by means of a ''screen reader,'' which translates the visual material on a computer screen into automated audible output.[7] Thus, section 508 requires that the means to access information exist within the electronic medium itself.

Consequently, this Office's existing authority, confined to enforcement case-by-case of the ADA requirements and the provision of general information about section 508, does not fully effectuate the public policy goal of the Section 508 Amendments.

The Office, therefore, wishes to amplify its December 31, 2000 Report to Congress by reporting that the legislative branch is not mandated to meet the higher level of electronic information accessibility which Congress requires of the executive branch pursuant to section 508.

[4] H. Conf. Rept. 105–659, 105th Cong., 2d Sess. (July 29, 1998).

[5] Section 201 of the CAA also applies, for purposes of proscribing employment discrimination, the meaning of ''disability'' as set forth in section 501 of the Rehabilitation Act. However, section 508 of the Rehabilitation Act is a separate and free standing provision and is not incorporated into the CAA simply by reason of the application of section 501.

[6] 66 FR 20893 (Apr. 25, 2001), codified at, 48 CFR part 39 (2001).

[7] This document is not the appropriate venue for any extensive technical description of the differences between section 508 and ADA requirements.

V. THE RECOMMENDATION OF THE BOARD OF DIRECTORS

When the section 508 amendments were enacted as part of the Workforce Investment Act of 1998, much if not most of the technology necessary to carry out its substantive mandates did not exist. Indeed, even at this stage, some in the electronic information community consider fully compliant technology to be non-existent. In any event, the Executive Branch is fully engaged in reaching Section 508 compliance. Furthermore, both the Library of Congress and the Government Printing Office, each of which maintains extensive and heavily visited web sites (GPO operates approximately 30 web sites for other executive and legislative branch agencies), have announced that they are proceeding voluntarily to achieve section 508 compliance. However, absent Congressional action, universal legislative branch electronic information accessibility will remain optional, and not a legal requirement.

The Congress commissioned this Board to monitor and comment on all laws which concern ''access to public services and accommodations.'' This responsibility of the Board helps ensure that the Legislative Branch is kept apprised regarding advances in access to electronic information technology, and is advised ''whether such provisions should be made applicable to the legislative branch.''

Pursuant to that mandate, the Board of Directors of the Office of Compliance recommends that the Congress enact amendments to sections 201 and 210 of the CAA to incorporate the substantive employee access and public access requirements of section 508 of the Rehabilitation Act of 1973 for all CAA-covered employing offices. We further suggest that the Office's existing section 401 and section 210 regulatory and enforcement authorities covering both employee and public access to electronic information systems be extended to include section 508 substantive requirements. Finally, we suggest that section 508 requirements regarding employee and public access also be applied to the Government Printing Office, Government Accounting Office, and Library of Congress.

The Office of Compliance stands ready to participate in the coordination of section 508 training and education for those in Congress and in the instrumentalities who are responsible for the maintenance and development of electronic information systems.

This Supplemental Section 102(b) Report is also available on the web site of the Office of Compliance, at www.compliance.gov.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002'' (Rept. No. 107–110).

By Mr. HARKIN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1519: A bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

By Mr. CLELAND, from the Committee on Armed Services, without amendment and with a preamble:

S. Con. Res. 55: A concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Peter B. Teets, of Maryland, to be Under Secretary of the Air Force.

By Mr. NELSON for the Committee on Armed Services.

*Claude M. Bolton, Jr., of Florida, to be an Assistant Secretary of the Army.

By Mr. LEVIN for the Committee on Armed Services.

Navy nomination of Rear Adm. (lh) Anthony W. Lengerich.

Army nomination of Col. Bruce H. Barlow.

Navy nomination of Rear Adm. (lh) Richard B. Porterfield.

Navy nomination of Capt. Stephen A. Turcotte.

Navy nomination of Rear Adm. (lh) David Architzel.

Army nominations beginning Brigadier General Keith B. Alexander and ending Brigadier General William G. Webster Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 21, 2001.

Navy nomination of Vice Adm. Charles W. Moore Jr.

Air Force nominations beginning Maj. Gen. Thomas J. Fiscus and ending Brig. Gen. Jack L. Rives, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 8, 2001.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nominations beginning Vern J. Abdoo and ending Douglas K. Zimmerman II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 27, 2001.

Navy nomination of John B. Stockel.

Navy nomination of Philip F. Stanley.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself and Mr. HELMS):

S. 1779. A bill to authorize the establishment of ''Radio Free Afghanistan'', and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself and Mr. BROWNBACK):

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce , Science, and Transportation.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr . CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 278

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 605

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 605, a bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system.

S. 826

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 826, a bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 905

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife

Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 1058

At the request of Mr. HUTCHINSON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1058, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1274

At the request of Mr. KENNEDY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1274, a bill to amend the Public Health Service Act to provide programs for the prevention, treatment, and rehabilitation of stroke.

S. 1335

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1335, a bill to support business incubation in academic settings.

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1503, a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1519

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1519, a bill to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1519, supra.

S. 1663

At the request of Mrs. CLINTON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1663, a bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1717

At the request of Mr. DOMENICI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1717, a bill to provide for a payroll tax holiday.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1758

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1758, a bill to prohibit human cloning while preserving important areas of medical research, including stem cell research.

S. CON. RES. 55

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Con. Res. 55, a concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself, Mr. HELMS, Mr. HAGEL, and Mr. DOMENICI):

S. 1778. A bill to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center; to the Committee on Foreign Relations.

Mr. LUGAR. Madam President, it is a great honor to rise today to introduce legislation that would name the Department of State's Foreign Affairs Training Center after former Secretary of State George P. Shultz. I am pleased to be joined by Senators HELMS, HAGEL, and DOMENICI in honoring this outstanding public servant.

Many of my most productive and enjoyable foreign policy experiences were those involving George Shultz as Secretary of State. Secretary Shultz celebrated the visits of foreign leaders to Washington by inviting hundreds of people to a luncheon or dinner at the State Department. If the guests were, for example, the President of Brazil, Shultz would identify prominent Brazilian business leaders, journalists, and scholars in the United States and a host of comparable Americans with interests in Brazil. He sprinkled the invitation list with members of the Reagan Administration and both houses of Congress. On most occasions, I was invited and introduced to a host of new friends deeply interested in international affairs.

When I became chairman of the Senate Foreign Relations Committee in 1985, the Secretary invited me to breakfast about once a month when Congress was in session. He always had a list of Reagan Administration legislative objectives for me to achieve and good suggestions on people and resources needed to accomplish each task.

In a two year period, I chaired extensive hearings on the Philippines, South Africa, and the prospects for democracy in Central America. Though the recommendations of Secretary Shultz, I co-chaired Presidential election observer efforts in Guatemala, El Salvador and the Philippines. These experiences led to considerable post-election interest and diplomacy, especially in the Philippines. These events and the influence of Secretary Shultz played a large role in the context of my book ''Letters to the Next President''.

In recent years, I have been a participant in the Asia Roundtable meetings sponsored by Stanford University and inspired by the leadership of George Shultz and his ability to bring statesmen from each Asian country to his meetings. Similarly, he brings distinguished leaders from all over the world to Stanford University Advisory Committee meetings and I have been the beneficiary of those rich experiences.

My continuing service in the United States Senate has received constant support from Secretary Shultz. His letters and wise counsel during conversations have made a significant difference in my understanding of complex issues. From the years at the State Department dinners to the present, he has introduced me to a legion of friends in many countries, and

this network of friends and advisors has been invaluable.

Secretary Shultz decided to back President George W. Bush very early in the Presidential Campaign of 2000 and has offered strong support to President Bush's bold diplomacy and the importance of employing and retaining the best foreign service personnel to achieve our international goals. Naming the National Foreign Affairs Training Center after George P. Shultz will be a fitting tribute to a great public servant who continues to exemplify the hallmark qualities in United States international leadership.

This bill has the full support of the Department of State. In fact, it is at Secretary Powell's request that we are seeking to expedite its consideration. Secretary Powell has invited former Secretary Shultz to visit Washington in January. I understand that Secretary Powell hopes to announce the dedication of the Foreign Affairs Training Center during Shultz's stay in Washington. It is my hope that the Majority and Minority Leader and the Members of the Senate will fine the opportunity to move this important legislation in the near term. Congressman HYDE and LANTOS have offered the same legislation in the House and have similar hopes for speedy passage.

By Mr. THOMPSON (for himself and Mr. WARNER):

S. 1780. A bill to provide increased flexibility Governmentwide for the procurement of property and services to facilitate the defense against terrorism, and for other purposes; to the Committee on Governmental Affairs.

Mr. THOMPSON. Madam President, I rise today to introduce a bill to help Federal agencies fight our Nation's war against terrorism. I am introducing this bill at the request of the President and on behalf of myself as ranking member of the Governmental Affairs Committee and Senator WARNER, the ranking member of the Armed Services Committee.

For many years, we have accepted that the Federal Government pays a premium, both in dollars and time spent, for the goods and services it buys solely because of unique requirements it imposes on its contractors. While the Federal procurement system has been streamlined and simplified over the last several years, much red tape and barriers to ''commercial-style'' contracting still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

In ordinary times and because of recent procurement policy reforms, we believe that a Federal agency can buy most anything it needs quickly and efficiently under current law if it has good management practices in place and smart, well-trained contracting officers. However, these are not ordinary times. Further, we know that the Federal Government is not well-managed and our acquisition workforce is rapidly dwindling. With that said, it is our responsibility to ensure that Federal agencies with a role in homeland security can purchase, quickly and efficiently, the most high-tech and sophisticated products and services to support antiterrorism efforts and to defend against biological, chemical, nuclear, radiological or technological attacks.

The bill which we are introducing builds on emergency contracting authority already in place for the Department of Defense and other agencies and goes further by providing additional contracting flexibilities. Today, national security and homeland security have the same kinds of requirements, detection, tracking, preparedness, prevention, response and recovery. By providing additional procurement flexibilities, the agencies involved in homeland security will be able to apply more easily many new and proven defense-related technologies.

For example, current law gives agencies the ability to use streamlined, simplified contracting procedures for contracts under $200,000 which are made and performed outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation. This bill would raise that threshold to $500,000 for any, outside or within the United States, contract awarded for products or services in support of a contingency operation or a humanitarian or peacekeeping operation.

Current law also provides simplified contracting procedures for the purchase of commercial items, goods and services produced for the commercial marketplace and not encumbered by government specifications or requirements. The bill would allow goods and services purchased to help agencies fight against terrorism or biological, chemical, nuclear, radiological or technological attacks to be treated as if they were purchases for commercial items, in other words, agencies needing these goods and services could use the simpler, expedited procedures. This would allow agencies to quickly buy technologies or products which are cutting-edge, but which may not have made it to the commercial marketplace yet.

This legislation also encourages the use of current procurement flexibilities which are authorized in existing statutes. An agency can use these existing provisions where it is appropriate to provide quick and responsive solutions to its emergency contracting requirements. Further, the bill includes language which will allow agencies to use approaches other than contracts to buy research and development for new technologies to fight against terrorism. The Department of Defense currently has this authority and the bill would extend that authority to the rest of the Federal agencies.

And finally, this bill would encourage more competition in the Federal marketplace by requiring agencies to do ongoing market research to identify new companies with new capabilities to help agencies in the fight against terrorism.

We must ensure that Federal agencies which are preparing to fight terrorism have access to a wide variety of traditional and innovative solutions in a timely fashion. The bill we are introducing today will go a long way toward that goal.

Mr. WARNER. Madam President, I join Senator THOMPSON in introducing the Federal Emergency Procurement Flexibility Act. This bill will provide emergency contracting relief to Federal agencies in support of our Nation's fight against terrorism by allowing agencies to effectively buy what is needed to address the threats to our Nation.

While the Federal procurement system has improved in the last decade, there are still many areas where changes should be made to support the current emergency. This bill provides for streamlining the contracting process to access new technology, provides for emergency authorities for small purchases, and maximizes the use of existing streamlined procurement authorities.

The United States has some of the best ideas and technology in the world. To win the war on terrorism, the government needs to do all it can to gain access to this technology, much of which is located in the private sector. However, many firms, particularly in the biotechnology and information technology sectors, have been deterred from bidding on government contracts by the perception that government contracting is burdened with red tape and requirements.

In this time of crisis, we can not afford to keep these businesses on the sidelines. To promote the participation of these firms in solving our homeland defense problems, this bill would authorize the use by federal agencies of ''other transactions'' authority for research and development and prototype projects. ''Other transactions'' authority is a streamlined acquisition approach currently available only to the Department of Defense. This authority has been enormously helpful in allowing the Department of Defense to gain access to the research and expertise of non-traditional defense contractors. I anticipate that the Department of Health and Human Services or the Environmental Protection Agency, for example, would be able to effectively use ''other transactions'' authority to research and prototype new vaccines, detection systems, and remediation technology to meet the bioterrorist threat.

For production, service or research needs where ''other transactions'' authority is not appropriate, this bill authorizes ''commercial like'' contracting procedures for those contracts that facilitate the defense against terrorism or nuclear, chemical, biological or information attack on the United

States. These commercial contracting procedures are exempted from many government unique requirements and allow for the use of a more streamlined acquisition approach.

By Mr. McCAIN (for himself and Mr. BROWNBACK):

S. 1781. A bill to direct the Secretary of Commerce to establish a voluntary national registry system for greenhouse gases trading among industry, to make changes to United States Global Change Research Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Madam President, I, rise to introduce the Emission Reductions Incentive Act of 2001. I thank Senator BROWNBACK for his co-sponsorship and his cooperation in drafting this bill, along with his commitment to addressing this growing problem.

Earlier this year, I announced intentions to consider the establishment of a ''cap and trade'' system for carbon dioxide emissions. I am continuing to work with Senator LIEBERMAN on this effort. However, the bill which I am introducing today is not in lieu of that commitment, but rather in support of it.

The bill proposes the establishment of a national voluntary registry for entities to register carbon emissions reductions. The registry would support current voluntary trading practices in private industry and other non-governmental organizations. Over the past years, the Commerce Committee has heard testimony from several organizations on their efforts conduct trading programs internally or across a small segment of industry. This registry bill will aid those efforts greatly by establishing a national system whereby these companies may be able to participate and be assured that a ton of carbon purchased is indeed a ton of carbon.

Establishment of the registry would also require the development of certain standards for measuring, verifying and reporting emission reductions to the registry. I believe that with these procedures in place, the registry would be able to withstand any future requirements imposed by a mandatory ''cap and trade'' system. The bill would also provide for consideration of credits realized under this program against any future mandatory system.

The bill also proposed changes to the US Global Climate Change Program, USGCRP. It requires a new strategic plan for the next 10 years. The bill would provide for dedicated management to support the interagency USGCRP and have this office report to the Director of the Office of Science and Technology Policy. We feel this will provide a needed channel to the White House for the Federal scientific community to be heard. We have also asked the office to work with the agencies' development activities.

The bill proposed additional changes to the Partnership for New Generation Vehicles, PHGV, program and provides additional incentives for the licensing of technologies. I hope that we can increase the deployment of technologies to reduce carbon dioxide emissions by providing further incentives to Federal employees, those who are ultimately responsible for the transfer of the research results. The National Research Council recently made recommendations on the PNGV program, a cooperative research and development program between the Federal Government and the US Council for Automotive Research. The bill requires the Department of Commerce to implement many of those recommendations.

As we all know, more than 160 countries recently reached an agreement on the Kyoto Protocol, which would require industrialized nations to reduce their carbon dioxide emissions. There are many US companies that operate facilities in other countries. These facilities will have to meet local emissions requirements. The bill requires the Secretary of Commerce to study the effects that a ratified treaty will have on the US industry and its ability to compete globally.

Again, I thank Senator BROWNBACK for help on this piece of legislation. I understand that other members of the Commerce Committee have recently introduced legislation in this area and look forward to working with them on a comprehensive package.

Mr. BROWNBACK. Madam President, I am please to join Senator McCAIN today in introducing the Emission Reductions Incentive Act of 2001. This bill will put into place a voluntary registry for greenhouse gas, GHG, reductions house in the Department of Commerce. Furthermore, the bill establishes structure for the independent measurement and verification of GHG reductions. This is an important step in providing an incentive for companies who wish to reduce their emissions, and it will provide assurance that companies who take positive action on climate change today will be rewarded in the future. All this can be accomplished with barely any cost to the government, since it will be private, third party groups that undertake the burden to measure, verify and prove actual greenhouse gas emission reductions.

There are those who wonder why such a measure is needed, given the fact that there is an existing registry in the Department of Energy and the uncertainty on the climate change issue. First, the new registry will only hold information that has been independently verified. Like the current registry, this new registry would be completely voluntary. However, unlike the DOE program, this registry will focus on keeping track of proven greenhouse gas reductions, and will therefore, encourage more companies to undertake measures to reduce emissions since they will have the ability to defend these reductions as real if future regulations are put in to place. Also, since this registry will be housed in the Department of Commerce and verified by independent parties, it treats the issue as an investment or transaction between companies to limit risk, rather than an environmental regulation.

Several utilities and other companies who emit high levels of carbon dioxide have expressed real concern that they need certainty to be able to plan for the life of new power plants and investment decisions which will last for 20 years or more. Currently, there is no certainty with regard to how the climate change issue will be handled. This means companies must plan for an uncertain future which leads to undue expense. This bill will allow companies to decide for themselves how much action they need to take, and provide a way of taking out an insurance policy, of sorts, on the climate change issue. This is important because we need more investment in energy infrastructure, more clean coal plants and natural gas plants. Yet these new plants won't move forward if they fear being hit with a high carbon tad in the next 5–10 years.

This bill offers industry a way to make investments in GHG reductions or carbon sequestration offsets gradually, building up credits that could be used down the road if regulations are put into place. While there is no ''one-for-one'' trade in on these credits, there would be a government certified stamp of approval on early actions to reduce greenhouse gases—which any future regulations would have to account for

Second, there are those who argue that the science is still unsettled with regard to the climate change issue, and that we should not move toward costly measures which will punish industry for a problem that is still not fully understood. Actually, this is the very reason why we should establish a voluntary, but measured and verified registry now. This bill given industry the opportunity to experiment and get credit for pro-active measures that will reduce greenhouse gas emissions without unduly burdening energy consumers. New and better technology is the key to solving this issue, but why would a company employ such technology now with the uncertainty surrounding how this issue will be addressed? They could in fact, be punished for such actions if later regulations are put into place which do not account for reductions that were already taken. This is a free-market approach to reward and encourage responsible industry to continue and even make a market out of reducing greenhouse gases. This registery will help establish and encourage the most cost-effective ways to tackle this problem while also finding where difficulties may lie.

We can not shrink from difficult challenges, nor should we overreact. When there is the opportunity to allow market force to work on a problem, we should most definitely encourage that process. I am pleased to be joining my

friend from Arizona in introducing this legislation and look forward to pursuing this policy during the upcoming energy debate.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE):

S. 1782. A bill to authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death; to the Committee on Veterans' Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation for myself, Senator STEVENS, Senator ALLEN Senator CLELAND, and Senator INOUYE to provide a exception to the rules governing burials at Arlington national Cemetery.

This very limited legislation will permit individuals with extensive military service, who lost their lives on September 11, to be buried at Arlington National Cemetery.

I am introducing this legislation today, along with my colleagues, to address a specific situation that involves Captain Charles F. ''Chic'' Burlingame III, a resident of Oak Hills Virginia and others who may have the same accrued entitlement.

Captain Burlingame was the pilot of American Airlines flight 77, that ill-fated aircraft which was hi-jacked by terrorists and used as a horrible weapon of destruction against the Pentagon on September 11.

Captain Burlingame, however, was more than the pilot of that plane—he was also a retired veteran of the United States Navy.

He served his country with distinction for 8 years by flying fighter planes off aircraft carriers—one of the military's most hazardous duties.

He continued his military career as a reserve officer, honorably retiring with the rank of Captain. Ironically, Captain Burlingame's reserve duty was in the Pentagon, a building he knew so well.

In the aftermath of September 11 we have learned of many heroic acts of those who lost their lives in trying to overcome the terrorists on that tragic morning. This is certainly true in the case of Captain Burlingame.

Recent information from the FBI indicate that Captain Burlingame was killed by the terrorists prior to the crash of the Flight 77 into the Pentagon. Clearly, Captain Burlingame gave his life fighting to protect the passengers of the plane and those on the ground. One can clearly see that Captain Burlingame and those who lost their lives on September 11 were the first casualties of our War on Terrorism.

Arlington Cemetery is the resting place for many American heroes who gave their lives to protect American freedoms. Certainly, Captain Burlingame's service to country and his sacrifice on Flight 77 should be recognized by our nation.

Captain Burlingame's widow, Sheri, and his brothers and sisters, desire that Captain Burlingame be buried in Arlington National Cemetery. Captain Burlingame's superb military service would make him eligible for burial in any of our other National Cemeteries.

The very strict regulations which govern burials at Arlington, however, do not allow for burial of a person retired from the Reserves until they reach sixty years of age. Had he merely reached the age of sixty, he would have been fully eligible for burial in Arlington National Cemetery.

Additionally, there may be others who lost their lives on September 11 who are in a similar situation. This bill will also allow those person to be buried in Arlington National Cemetery.

I respectfully request that my colleagues support this effort.

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. 1782

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

SECTION 1. AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2251. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2252. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2253. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2254. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2255. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2258. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2259. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2260. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2261. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2262. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2268. Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2273. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2274. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2282. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2289. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2296. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2297. Mr. BAYH (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2299. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, supra; which was ordered to lie on the table.

SA 2308. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2243. Mr. STEVENS proposed an amendment to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 326, after line 20, strike all through to page 398, line 19, and insert in lieu thereof the following:

DIVISION B—TRANSFERS FROM THE EMERGENCY RESPONSE FUND PURSUANT TO PUBLIC LAW 107–38

The funds appropriated in Public Law 107–38 subject to subsequent enactment and previously designated as an emergency by the President and Congress under the Balanced Budget and Emergency Deficit Control Act of 1985, are transferred to the following chapters and accounts as follows:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of the Secretary'', $43,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the ''National Food Security Fund'', $300,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $45,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $76,800,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the total amount provided, $50,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Buildings and Facilities'', $14,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FOOD SAFETY AND INSPECTION SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Food Safety and Inspection Service'', $12,300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the

United States, and for other expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Food and Drug Administration, Salaries and Expenses'', $120,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

COMMODITY FUTURES TRADING COMMISSION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Commodity Futures Trading Commission'', $10,196,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

PATRIOT ACT ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Patriot Act Activities'', $100,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $2,000,000 shall be for a feasibility report, as authorized by Section 405 of Public Law 107–56, and of which $23,000,000 shall be for implementation of such enhancements as are deemed necessary: *Provided,* That funding for the implementation of such enhancements shall be treated as a reprogramming under section 605 of Public Law 107–77 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ADMINISTRATIVE REVIEW AND APPEALS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Administrative Review and Appeals'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, General Legal Activities'', $10,026,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Attorneys'', $74,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses, United States Marshals Service'', $11,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $538,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, of which $10,283,000 is for the refurbishing of the Engineering and Research Facility and $14,135,000 is for the decommissioning and renovation of former laboratory space in the Hoover building.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for all costs associated with the reorganization of the Immigration and Naturalization Service, for ''Salaries and Expenses'', $399,400,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Justice Assistance'', $462,000,000, of which $100,000,000 may be used for increased security at public events, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs, to be obligated from amounts made available in Public Law 107–38.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, $236,900,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $17,100,000 shall be for the Utah Olympic Public Safety Command, of which $81,600,000 shall be for New Jersey, and of which $56,500,000 shall be for Maryland, of which $81,700,000 shall be for Northern Virginia: *Provided,* That $20,000,000 shall be made available to the Office of Domestic Preparedness for a competitive grant for a project to enhance the communications interoperability of law enforcement, fire, medical services, and transportation agencies that respond to emergencies in the Greater Washington Metropolitan Area: *Provided further*, That $15,000,000 shall be made available for a chemical sensor program for the Washington area transit system, to remain available until expended, and to be obligated from amounts made available in Public Law 107–38.

CRIME VICTIMS FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Crime Victims Fund'', $68,100,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Administration'', $1,756,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $335,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For emergency grants authorized by section 392 of the Communications Act of 1934, as amended, to respond to the September 11, 2001, terrorist attacks on the United States, $8,250,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $3,360,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Scientific and Technical Research and Services'', $20,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION OF RESEARCH FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction of Research Facilities'', $1,225,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations, Research and Facilities'', $2,750,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $881,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Training'', $11,000,000, for a port security program, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,301,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,705,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For emergency expenses for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia and Pennsylvania on September 11, 2001, for ''Disaster Loans Program Account'', $75,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 3

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DEFENSE EMERGENCY RESPONSE FUND

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Defense Emergency Response Fund'', $4,258,569,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38: *Provided,* That $20,000,000 shall be made available for the National Infrastructure Simulation and Analysis Center (NISAC): *Provided further,* That $500,000 shall be made available only for the White House Commission on the National Moment of Remembrance: *Provided further,* That—

(1) $35,000,000 shall be available for the procurement of the Advance Identification Friend-or-Foe system for integration into F–16 aircraft of the Air National Guard that are being used in continuous air patrols over Washington, District of Columbia, and New York, New York; and

(2) $20,000,000 shall be available for the procurement of the Transportation Multi-Platform Gateway for integration into the AWACS aircraft that are being used to perform early warning surveillance over the United States.

(3) $15,000,000 shall be available for the acquisition of ten Lynx SAR kits.

NATIONAL SECURITY BIO-TERRORISM DEFENSE FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for ''Public Health and Social Services Emergency Fund'', $2,300,000,000, to remain available until September 30, 2003. Of this amount, $500,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; $85,000,000 shall be for grants to hospitals, in collaboration with local governments, to improve capacity to respond to bioterrorism; $128,000,000 shall be for upgrading capacity at the Centers for Disease Control and Prevention, including research; $98,000,000 shall be for the Office of the Secretary and improving disaster response teams; $70,000,000 shall be for the National Institute of Allergy and Infectious Diseases for bioterrorism-related research and development and other related needs; $69,000,000 shall be for the National Institute of Allergy and Infectious Diseases for the construction of a biosafety laboratory and related infrastructure costs; $593,000,000 shall be for the National Pharmaceutical Stockpile; $562,000,000 shall be for the purchase and related costs of the smallpox vaccine, and $30,000,000 shall be for improving laboratory security at the National Institutes of Health and the Centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For emergency expenses to respond to the September 11, 2001 terrorist attacks on the United States, for ''Other Procurement, Air Force'', $210,000,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 301. Amounts available in the ''Defense Emergency Response Fund'' shall be available for the purposes set forth in the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38): *Provided,* That the Fund may be used to reimburse other appropriations or funds of the Department of Defense only for costs incurred for such purposes between September 11 and December 31, 2001: *Provided further,* That such Fund may be used to liquidate obligations incurred by the Department under the authorities in 41 U.S.C. 11 for any costs incurred for such purposes between September 11 and September 30, 2001: *Provided further,* That the Secretary of Defense may transfer funds from the Fund to the appropriation, ''Support for International Sporting Competitions, Defense'', to be merged with, and available for the same time period and for the same purposes as that appropriation: *Provided further,* That the transfer authority provided by this section is in addition to any other transfer authority available to the Secretary of Defense: *Provided further,* That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority.

SEC. 302. Amounts in the ''Support for International Sporting Competitions, Defense'', may be used to support essential security and safety for the 2002 Winter Olympic Games in Salt Lake City, Utah, without the certification required under subsection 10 U.S.C. 2564(a). Further, the term ''active duty'', in section 5802 of Public Law 104–208 shall include State active duty and full-time National Guard duty performed by members of the Army National Guard and Air National Guard in connection with providing essential security and safety support to the 2002 Winter Olympic Games and logistical and security support to the 2002 Paralympic Games.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Protective Clothing and Breathing Apparatus, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Specialized Hazardous Materials Equipment, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Chemical and Biological Weapons Preparedness, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Policy Department, and $9,891,325 is for the Department of Health.

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for a Federal payment to the District of Columbia for Pharmaceuticals for Responders, to be obligated from amounts made available in Public Law 107–38 and to remain available until expended, $2,100,000, for the Department of Health.

Notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget. The Chief financial Officer of the District of Columbia shall provide quarterly reports to the President and the Committees on Appropriations of the Senate and the House of Representatives on the use of the funds under this heading beginning no later than January 2, 2002.

DISTRICT OF COLUMBIA FUNDS

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia and shall remain available until expended.

For Protective Clothing and Breathing Apparatus, to remain available until expended, $12,144,209, of which $921,833 is for the Fire and Emergency Medical Services Department, $4,269,000 is for the Metropolitan Police Department, $1,500,000 is for the Department of Health, $453,376 is for the Department of Public Works, and $5,000,000 is for the Washington Metropolitan Area Transit Authority.

For Specialized Hazardous Materials Equipment, to remain available until expended, $1,032,342, for the Fire and Emergency Medical Services Department.

For Chemical and Biological Weapons Preparedness, to remain available until expended, $10,354,415, of which $204,920 is for the Fire and Emergency Medical Services Department, $258,170 is for the Metropolitan Police Department, and $9,891,325 is for the Department of Health.

For Pharmaceuticals for Responders, to remain available until expended, $2,100,000, for the Department of Health.

CHAPTER 5

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear weapons complex, for ''Weapons Activities'', $199,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE NUCLEAR NONPROLIFERATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to improve nuclear nonproliferation and

verification research and development, for ''Defense Nuclear Nonproliferation'', $155,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

OTHER DEFENSE RELATED ACTIVITIES

OTHER DEFENSE ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses necessary to support activities related to countering potential biological threats to civilian populations, for ''Other Defense Activities'', $3,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Defense Environmental Restoration and Waste Management'', $8,200,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and for other expenses to increase the security of the Nation's nuclear power plants, for ''Salaries and Expenses'', $36,000,000, to remain available until September 30, 2003: *Provided,* That the funds appropriated herein shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation of the National Park System'', $10,098,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES PARK POLICE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''United States Park Police'', $25,295,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CONSTRUCTION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction'', $21,624,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,205,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, for the working capital fund of the Department of the Interior.

RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $21,707,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,148,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations and Maintenance'', $4,310,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $758,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 7

LEGISLATIVE BRANCH

JOINT ITEMS

LEGISLATIVE BRANCH EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses to respond to the terrorist attacks on the United States, $256,081,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided,* That $34,500,000 shall be transferred to the ''SENATE'', ''Sergeant at Arms and Doorkeeper of the Senate'' and shall be obligated with the prior approval of the Senate Committee on Appropriations: *Provided further,* That $40,712,000 shall be transferred to ''HOUSE OF REPRESENTATIVES'', ''Salaries and Expenses'' and shall be obligated with the prior approval of the House Committee on Appropriations: *Provided further,* That the remaining balance of $180,869,000 shall be transferred to the Capitol Police Board, which shall transfer to the affected entities in the Legislative Branch such amounts as are approved by the House and Senate Committees on Appropriations: *Provided further,* That any Legislative Branch entity receiving funds pursuant to the Emergency Response Fund established by Public Law 107–38 (without regard to whether the funds are provided under this chapter or pursuant to any other provision of law) may transfer any funds provided to the entity to any other Legislative Branch entity receiving funds under Public Law 107–38 in an amount equal to that required to provide support for security enhancements, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

SENATE

ADMINISTRATIVE PROVISIONS

SEC. 701. (a) ACQUISITION OF BUILDINGS AND FACILITIES.—Notwithstanding any other provision of law, in order to respond to an emergency situation, the Sergeant at Arms of the Senate may acquire buildings and facilities, subject to the availability of appropriations, for the use of the Senate, as appropriate, by lease, purchase, or such other arrangement as the Sergeant at Arms of the Senate considers appropriate (including a memorandum of understanding with the head of an Executive Agency, as defined in section 105 of title 5, United States Code, in the case of a building or facility under the control of such Agency). Actions taken by the Sergeant at Arms of the Senate must be approved by the Committees on Appropriations and Rules and Administration.

(b) AGREEMENTS.—Notwithstanding any other provision of law, for purposes of carrying out subsection (a), the Sergeant at Arms of the Senate may carry out such activities and enter into such agreements related to the use of any building or facility acquired pursuant to such subsection as the Sergeant at Arms of the Senate considers appropriate, including—

(1) agreements with the United States Capitol Police or any other entity relating to the policing of such building or facility; and

(2) agreements with the Architect of the Capitol or any other entity relating to the care and maintenance of such building or facility.

(c) AUTHORITY OF CAPITOL POLICE AND ARCHITECT.—

(1) ARCHITECT OF THE CAPITOL.—Notwithstanding any other provision of law, the Architect of the Capitol may take any action necessary to carry out an agreement entered into with the Sergeant at Arms of the Senate pursuant to subsection (b).

(2) CAPITOL POLICE.—Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a) is amended—

(A) by striking ''The Capitol Police'' and inserting ''(a) The Capitol Police''; and

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

''(b) For purposes of this section, 'the United States Capitol Buildings and Grounds' shall include any building or facility acquired by the Sergeant at Arms of the Senate for the use of the Senate for which the Sergeant at Arms of the Senate has entered into an agreement with the United States Capitol Police for the policing of the building or facility.''.

(d) TRANSFER OF CERTAIN FUNDS.—Subject to the approval of the Committee on Appropriations of the Senate, the Architect of the Capitol may transfer to the Sergeant at Arms of the Senate amounts made available to the Architect for necessary expenses for the maintenance, care and operation of the Senate office buildings during a fiscal year in order to cover any portion of the costs incurred by the Sergeant at Arms of the Senate during the year in acquiring a building or facility pursuant to subsection (a).

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 702. (a) Notwithstanding any other provision of law—

(1) subject to subsection (b), the Sergeant at Arms of the Senate and the head of an Executive Agency (as defined in section 105 of title 5, United States Code) may enter into a memorandum of understanding under which the Agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) the Sergeant at Arms of the Senate and the head of the Agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

OTHER LEGISLATIVE BRANCH

ADMINISTRATIVE PROVISIONS

SEC. 703. (a) Section 1(c) of Public Law 96–152 (40 U.S.C. 206–1) is amended by striking

''but not to exceed'' and all that follows and inserting the following: ''but not to exceed $2,500 less than the lesser of the annual salary for the Sergeant at Arms of the House of Representatives or the annual salary for the Sergeant at Arms and Doorkeeper of the Senate.''.

(b) The Assistant Chief of the Capitol Police shall receive compensation at a rate determined by the Capitol Police Board, but not to exceed $1,000 less than the annual salary for the chief of the United States Capitol Police.

(c) This section and the amendment made by this section shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

SEC. 704. (a) ASSISTANCE FOR CAPITOL POLICE FROM EXECUTIVE DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, Executive departments and Executive agencies may assist the United States Capitol Police in the same manner and to the same extent as such departments and agencies assist the United States Secret Service under section 6 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note), except as may otherwise be provided in this section.

(b) TERMS OF ASSISTANCE.—Assistance under this section shall be provided—

(1) consistent with the authority of the Capitol Police under sections 9 and 9A of the Act of July 31, 1946 (40 U.S.C. 212a and 212a–2);

(2) upon the advance written request of—

(A) the Chairman of the Capitol Police Board, or

(B) in the absence of the Chairman of the Capitol Police Board—

(i) the Sergeant at Arms and Doorkeeper of the Senate, in the case of any matter relating to the Senate; or

(ii) the Sergeant at Arms of the House of Representatives, in the case of any matter relating to the House; and

(3) either—

(A) on a temporary and non-reimbursable basis,

(B) on a temporary and reimbursable basis, or

(C) on a permanent reimbursable basis upon advance written request of the Chairman of the Capitol Police Board.

(c) REPORTS ON EXPENDITURES FOR ASSISTANCE.—

(1) REPORTS.—With respect to any fiscal year in which an Executive department or Executive agency provides assistance under this section, the head of that department or agency shall submit a report not later than 30 days after the end of the fiscal year to the Chairman of the Capitol Police Board.

(2) CONTENTS.—The report submitted under paragraph (1) shall contain a detailed account of all expenditures made by the Executive department or Executive agency in providing assistance under this section during the applicable fiscal year.

(3) SUMMARY OF REPORTS.—After receipt of all reports under paragraph (2) with respect to any fiscal year, the Chairman of the Capitol Police Board shall submit a summary of such reports to the Committees on Appropriations of the Senate and the House of Representatives.

(d) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 705. (a) The Chief of the Capitol Police may, upon any emergency as determined by the Capitol Police Board, deputize members of the National Guard (while in the performance of Federal or State service), members of components of the Armed Forces other than the National Guard, and Federal, State or local law enforcement officers as may be necessary to address that emergency. Any person deputized under this section shall possess all the powers and privileges and may perform all duties of a member or officer of the Capitol Police.

(b) The Capitol Police Board may promulgate regulations, as determined necessary, to carry out provisions of this section.

(c) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

SEC. 706. (a) Notwithstanding any other provision of law, the United States Capitol Preservation Commission established under section 801 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a) may transfer to the Architect of the Capitol amounts in the Capitol Preservation Fund established under section 803 of such Act (40 U.S.C. 188a–2) if the amounts are to be used by the Architect for the planning, engineering, design, or construction of the Capitol Visitor Center.

(b) Any amounts transferred pursuant to subsection (a) shall remain available for the use of the Architect of the Capitol until expended.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 8

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, DEFENSE-WIDE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Defense-wide'', $510,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided,* That of such amount, $35,000,000 shall be available for transfer to ''Military Construction, Army''.

MILITARY CONSTRUCTION, ARMY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Army'', $20,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, NAVY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Navy'', $2,000,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

MILITARY CONSTRUCTION, AIR FORCE

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Military Construction, Air Force'', $47,700,000 to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 801. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in Public Law 107–38 and this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection the Secretary shall notify the appropriate committees of Congress the following:

(1) The determination to use such amounts for the project.

(2) The estimated cost of the project.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term ''appropriate committees of Congress'' has the meaning given that term in section 2801 (4) of title 10, United States Code.

SEC. 802. Notwithstanding section 2808(a) of title 10, United States Code, the Secretary of Defense may not utilize the authority in that section to undertake or authorize the undertaking of, any military construction project described by that section using amounts appropriated or otherwise made available by the Military Construction Appropriations Act, 2002, or any act appropriating funds for Military Construction for a fiscal year before fiscal year 2002.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', for the Office of the Secretary and intelligence activities, $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, in addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, to be derived from the Airport and Airway Trust Fund, $37,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

COAST GUARD

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $203,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operations'', $232,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38, of which $32,000,000 shall be only for the Metropolitan Washington Airports Authority.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Facilities and Equipment'', $108,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, notwithstanding any other provision of law, for ''Grants-in-aid for airports'', to enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, $100,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 2003, to be obligated from

amounts made available in Public Law 107–38.

FEDERAL HIGHWAY ADMINISTRATION

MISCELLANEOUS APPROPRIATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Miscellaneous Appropriations'', including the operation and construction of ferrys and ferry facilities, $10,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Emergency Relief Program'', as authorized by section 125 of title 23, United States Code, $75,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Safety and Operations'', $6,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Formula Grants'', $23,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other safety and security related audit and monitoring responsibilities, for ''Salaries and Expenses'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

RELATED AGENCY

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $836,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 10

DEPARTMENT OF THE TREASURY

INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $2,032,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $1,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $22,846,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $31,431,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $127,603,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38; of this amount, not less than $21,000,000 shall be available for increased staffing to combat terrorism along the Nation's borders.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE INTERDICTION PROGRAMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operation, Maintenance and Procurement, Air and Marine Interdiction Programs'', $6,700,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Processing, Assistance and Management'', $16,658,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

TAX LAW ENFORCEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Tax Law Enforcement'', $4,544,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

INFORMATION SYSTEMS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Information Systems'', $15,991,000, to remain available until expended, to be obligated from amounts made available by Public Law 107–38.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $104,769,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $50,040,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For emergency expenses to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, $575,000,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDING FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Federal Buildings Fund'', $86,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Operating Expenses'', $4,818,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

REPAIRS AND RESTORATION

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Repairs and Restoration'', $2,180,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

CONSTRUCTION, MAJOR PROJECTS

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Construction, Major Projects'', $2,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Community development fund'', $2,000,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That such funds shall be subject to the first through sixth provisos in section 434 of Public Law 107–73: *Provided further*, That within 45 days of enactment, the State of New York, in conjunction with the City of New York, shall establish a corporation for the obligation of the funds provided under this heading, issue the initial criteria and requirements necessary to accept applications from individuals, nonprofits and small businesses for economic losses from the September 11, 2001, terrorist attacks, and begin processing such applications: *Provided further*, That the corporation shall respond to any application from an individual, nonprofit or small business for economic losses under this heading within 45 days of the submission of an application for funding: *Provided further*, That individuals, nonprofits or small businesses shall be eligible for compensation only if located in New York City in the area located on or south of Canal

Street, on or south of East Broadway (east of its intersection with Canal Street), or on or south of Grand Street (east of its intersection with East Broadway): *Provided further*, That, of the amount made available under this heading, no less than $500,000,000 shall be made available for individuals, nonprofits or small businesses described in the prior three provisos with a limit of $500,000 per small business for economic losses.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Office of Inspector General'', $1,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Science and Technology'', $100,514,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That amounts made available under this heading may be used for grants to States and localities for technical assistance, vulnerability assessments, remedial work, and emergency operations plans for drinking water systems.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Environmental Programs and Management'', $32,194,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

HAZARDOUS SUBSTANCE SUPERFUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering terrorism, for ''Hazardous Substance Superfund'', $18,292,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

STATE AND TRIBAL ASSISTANCE GRANTS

For making grants for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, and to support activities related to countering potential biological and chemical threats to populations, for ''State and Tribal Assistance Grants'', $5,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For disaster recovery activities and assistance related to the terrorist attacks in New York, Virginia, and Pennsylvania on September 11, 2001, for ''Disaster Relief'', $5,050,000,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38: *Provided*, That of the amount made available under this heading, $290,000,000 shall be transferred to ''Emergency Management Planning and Assistance'', to remain available until September 30, 2003, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): *Provided further*, That of this $290,000,000, grants may be made available for equipment, training, and vehicle needs related to hazards associated with bioterrorism: *Provided further*, That up to 5 percent of the $290,000,000 shall be transferred to ''Salaries and Expenses'' for program administration: *Provided further*, That of the total amount made available under this heading, $1,000,000 shall be made available to the Fairfax County Water Authority for water infrastructure reliability and vulnerability improvements.

SALARIES AND EXPENSES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Salaries and Expenses'', $20,000,000, to remain available until expended, for the Office of National Preparedness, to be obligated from amounts made available in Public Law 107–38.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Human Space Flight'', $64,500,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Science, Aeronautics and Technology'', $28,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for ''Research and Related Activities'', $300,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38.

CHAPTER 12

GENERAL PROVISIONS, THIS DIVISION

SEC. 1201. Amounts which may be obligated pursuant to this division are subject to the terms and conditions provided in Public Law 107–38.

SEC. 1202. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the ''Emergency Supplemental Act, 2002''.

SA 2244. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title IV of this division under the heading ''Research, Development, Test and Evaluation, Army'' that is available for missile technology, $8,500,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

SA 2245. Mr. KERRY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' and available for the Advanced Technology Development for Arms Control Technology element, $12,500,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

SA 2246. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading ''Procurement of Ammunition, Air Force'', $14,200,000 may be available for procurement of Sensor Fused Weapons (CBU–97).

SA 2247. Mr. HELMS (for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

TITLE ___—AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2001

SEC. ___01. SHORT TITLE.

This title may be cited as the ''American Servicemembers' Protection Act of 2001''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the ''Rome Statute of the International Criminal Court''. The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives

of the United States had not been achieved. As a result, he stated: ''We are left with consequences that do not serve the cause of international justice.''

(5) Ambassador Scheffer went on to tell the Congress that: ''Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.''.

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, ''I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied''.

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to ''determine the existence of any .... act of aggression'' would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. ___03. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) AUTHORITY TO INITIALLY WAIVE SECTIONS ___05 AND ___07.—The President is authorized to waive the prohibitions and requirements of sections ___05 and ___07 for a single period of one year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) AUTHORITY TO EXTEND WAIVER OF SECTIONS ___05 AND ___07.—The President is authorized to waive the prohibitions and requirements of sections ___05 and ___07 for successive periods of one year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least fifteen days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) AUTHORITY TO WAIVE SECTIONS ___04 AND ___06 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.—The President is authorized to waive the prohibitions and requirements of sections ___04 and ___06 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections ___05 and ___07 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(d) TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c).—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections ___04 and ___06 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections ___05 and ___07 expires and is not extended pursuant to subsection (b).

(e) TERMINATION OF PROHIBITIONS OF THIS TITLE.—The prohibitions and requirements of sections ___04, ___05, ___06, and ___07 shall cease to apply, and the authority of section ___08 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. ___04. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) APPLICATION.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section ___08; or

(B) communication by the United States of its policy with respect to a matter.

(b) PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government

may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. ____05. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) POLICY.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) RESTRICTION.—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) CERTIFICATION.—The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

SEC. ____06. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) IN GENERAL.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) INDIRECT TRANSFER.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) CONSTRUCTION.—The provisions of this section shall not be construed to prohibit any action permitted under section ____08.

SEC. ____07. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.

(a) PROHIBITION OF MILITARY ASSISTANCE.—Subject to subsections (b) and (c), and effective one year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) NATIONAL INTEREST WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) ARTICLE 98 WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against United States personnel present in such country.

(d) EXEMPTION.—The prohibition of subsection (a) shall not apply to the government of—

(1) a NATO member country;

(2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or

(3) Taiwan.

SEC. ____08. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. ____09. ALLIANCE COMMAND ARRANGEMENTS.

(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a

party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than one year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. ___10. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. ___11. APPLICATION OF SECTIONS ___04 AND ___06 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) IN GENERAL.—Sections ___04 and ___06 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section ___04 or ___06, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. ___12. NONDELEGATION.

The authorities vested in the President by sections ___03 and ___11(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section ___05(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. ___13. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term ''classified national security information'' means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term ''covered allied persons'' means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term ''covered United States persons'' means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms ''extradition'' and ''extradite'' mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term ''International Criminal Court'' means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term ''major non-NATO ally'' means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term ''participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations'' means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term ''party to the International Criminal Court'' means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term ''peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations'' means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term ''Rome Statute'' means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT.—The term ''support'' means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE.—The term ''United States military assistance'' means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. ___14. PERIOD OF EFFECTIVENESS OF THE TITLE.

Except as otherwise provided in this title, the provisions of this title shall take effect on the date of enactment of this Act and remain in effect without regard to the expiration of fiscal year 2002.

SA 2248. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT, ARMY'', $10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

SA 2249. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes;

which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT, NAVY'', $8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

SA 2250. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC.—.Of the amount appropriated by title III of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $20,000,000 may be made available for the Broad Area Maritime Surveillance program.

SA 2251. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, strike lines 3 through 11.

SA 2252. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 305, strike line 15 and all that follows through page 308, line 25.

SA 2253. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8016, relating to Buy American requirements for welded shipboard anchor and mooring chains.

SA 2254. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8094, relating to Buy American requirements for main propulsion diesel engines and propulsors for the T–AKE class of ships.

SA 2255. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . (a) NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.—The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

SA 2256. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in the Act under the heading ''Research, Development, Test and Evaluation, Air Force'' up to $4,000,000 may be made available to extend the modeling and reengineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

SA 2257. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10756, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) expired before the date of the enactment of this Act—

(1) the Commission shall reinstate the license effective as of the date of its expiration;

(2) the reinstatement shall preserve the demonstration by the licensee of compliance with all the requirements of Public Law No. 103–450 (108 Stat. 4766) applicable to the project; and

(3) the first extension authorized under subsection (a) shall take effect on the expiration date.

SA 2258. Mr. LUGAR (for himself, Mr. LEVIN, Mr. BIDEN, Mr. HAGEL, Mr. DOMENICI, Mr. BINGAMAN, Mr. TORRICELLI, Mr. DODD, Mr. DASCHLE, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated in title II of this division under the heading ''FORMER SOVIET UNION THREAT REDUCTION'' is hereby increased by $46,000,000.

(b) OFFSET.—Notwithstanding any other provision of this Act, the amount of the reduction provided for in section 8098 of this title is hereby increased by $46,000,000, with the amount of the increase to be distributed equally among each of the accounts set forth in that section.

SA 2259. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, line 9, of Division C, after the period insert ''Of the amounts provided for equipment grants, $7,500,000 shall be made available for projects utilizing the techniques of Risk Management Planning to provide real time crisis planning, training, and response services to any widely attended event, including sporting events, which receives a terrorist threat advisory from the Federal Bureau of Investigation or similar warnings from any other Federal law enforcement agency.''

SA 2260. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, line 23, insert before the period '', of which, $3,000,000 shall be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials''.

SA 2261. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . *Provided,* That any request for advance appropriations for large capital projects, to include shipbuilding, may be proposed if such proposals include contractual provisions which yield cost savings for such projects. *Provided further,* That for purposes of this section shipbuilding advance appropriations are defined as appropriations

made in any fiscal year for any naval vessel for such fiscal year together with each of not more than five subsequent fiscal years, in accordance with which the government may incur obligations. Appropriations only for long lead items or other advanced components are not included in this definition.

SA 2262. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE'', $2,000,000 is available for Military Personnel Research.

SA 2263. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title VI under the heading ''OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS'', $7,500,000 is available for Armed Forces Retirement Homes.

SA 2264. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . *Provided,* That the funds appropriated by this act for C–130J aircraft shall be used to support the Air Force's long-range plan called the ''C–130 Roadmap'' to assist in the planning, budgeting, and beddown of the C–130J fleet. The ''C–130 Roadmap'' gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C–130J aircraft beddown sequence.

SA 2265. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, $4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN).

SA 2266. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the title of general provisions, add the following:

SEC. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, $55,700,000 shall be available only for the Defense Leadership and Management Program.

SA 2267. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Marine Corps, $2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

SA 2268. Mr. WARNER (for himself, Mr. STEVENS, Mr. ALLEN, Mr. CLELAND, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

SA 2269. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR HIGH SPEED ASSAULT CRAFT ADVANCED COMPOSITE ENGINEERING AND MANUFACTURING DEMONSTRATOR.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,000,000, with the amount of increase to be allocated to the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator is in addition to any other amounts made available by this Act for the High Speed Assault Craft Advanced Composite Engineering and Manufacturing Demonstrator.

(c) OFFSET.—The total amount appropriated by this Act for activities with respect to B–52 aircraft is hereby reduced by $2,000,000.

SA 2270. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amounts appropriated by title VI of this division under the heading ''DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE'', $15,000,000 shall be available for the Gulf States Initiative.

SA 2271. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—The amount available for the Partnership for Peace (PFP) Information Management System under title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,000,000 to $3,922,000.

(4) OFFSET.—The amount made available by this Act for C4I Interoperability is hereby reduced by $2,000,000.

SA 2272. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. (a) FUNDING FOR ARMY NUTRITION PROJECT.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $2,500,000, with the amount of the increase to be allocated to the Army Nutrition Project (PE0603002A).

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available under subsection (a) for the Army Nutrition Project is in addition to any other amounts available under this Act for the Army Nutrition Project.

(c) OFFSET.—(1) The amount made available by this Act for the Defense Research Sciences, Southeast Atlantic Coastal Ocean Observing System is hereby reduced by $2,000,000.

(2) The amount made available by this Act for RF Systems Advanced Technology, M3CAS is hereby reduced by $500,000.

SA 2273. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in title IV of this Act under the heading ''Research Development, Test and Evaluation, Army'', up to $4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

SA 2274. Mr. HELMS (for himself and Mr. EDWARDS) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Army'', $2,550,000 shall be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH)

SA 2275. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Navy'', up to $2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2276. Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add the following new section:

SEC. .Of the funds made available in Title II of this Act under the heading ''Operation and Maintenance, Air Force,'', up to $2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

SA 2277. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. .Of the amount appropriated by title III of this division under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'', $6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C–130H2 aircraft (PEO40115) for aircraft of the Nevada Air National Guard at Reno, Nevada.

SA 2278. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $3,000,000 may be made available for Medical Development (PE604771N) for the Clark County, Nevada, bioterrorism and public health laboratory.

SA 2279. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE '', $1,000,000 may be made available for Agile Combat Support (PE64617) for the Rural Low Bandwidth Medical Collaboration System.

SA 2280. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Navy, $6,000,000 may be available for the critical infrastructure protection initiative.

SA 2281. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of this division, add the following:

SEC. 8135. (a) FUNDING FOR DOMED HOUSING UNITS ON MARSHALL ISLANDS.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $4,400,000, with the amount of the increase to be available to the Commanding General of the Army Space and Missile Defense Command for the acquisition, installation, and maintenance of not more than 50 domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

(b) LIMITATION.—Funds available under subsection (a) may not be used for a contract with a person or entity if the person or entity has not installed domed housing units on the Marshall Islands as of the date of the enactment of this Act.

(c) OFFSET.—The amount appropriated by title III of this division under the heading ''PROCUREMENT, MARINE CORPS'' is hereby reduced by $4,400,000, with the amount of the reduction to be allocated to amounts available for the family of internally transportable vehicles (ITV).

SA 2282. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $12,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

SA 2283. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Strike the following:

SEC. 8032 (f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $60,000,000.

SA 2284. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. . NO PROHIBITION ON BURIAL OF RESERVISTS AT ARLINGTON NATIONAL CEMETERY BASED SOLELY ON AGE AT DEATH.

(a) The Secretary of the Army may not prohibit the burial at Arlington National Cemetery, Virginia, of a deceased member of the Reserves who at death is qualified for burial in their own grave at Arlington National Cemetery in all respects but age at death based solely on the age of the member at death.

(b) DATE OF ENACTMENT.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2285. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division A, insert the following.

SEC. . POSTHUMOUS RECALL TO ACTIVE DUTY.

(a) POSTHUMOUS RECALL PROCEDURE.—The Secretary of Defense may posthumously and involuntarily recall to active duty previously retired members of the Ready Reserve provided:

(1) There is reason to believe they were killed attempting to stop a terrorist attack on domestic soil or abroad, or

(2) They were killed while engaged in the defense of the United States.

(b) DATE OF ENACTMENT.—This section will take effect on September 11, 2001, and for all occurrences thereafter.

SA 2286. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading ''NATIONAL NUCLEAR SECURITY ADMINISTRATION'' under the paragraph ''DEFENSE NUCLEAR PROLIFERATION'', insert after ''nuclear nonproliferation and verification research and development'' the following: ''(including research and development with respect to radiological dispersion devices, also known as 'dirty bombs')''.

SA 2287. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, under the heading ''NUCLEAR REGULATORY COMMISSION'' under the paragraph ''SALARIES AND EXPENSES'', insert after ''nuclear power plants'' the following: ''and spent nuclear fuel storage facilities''.

SA 2288. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

In chapter 3 of title I of division C, insert after the matter relating to ''DEFENSE NUCLEAR NONPROLIFERATION'' the following:

OFFICE OF CRITICAL INFRASTRUCTURE PROTECTION

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

For an additional amount to respond to the September 11, 2001, terrorist attacks on the United States, and to improve the security of the Nation's oil refineries against cyber and physical attack, $16,000,000, to remain available until September 30, 2003: *Provided,* That the amount appropriated by chapter 12 of division B under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' under the paragraph ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' is hereby reduced by $14,000,000; *Provided further,* That the amount appropriated by chapter 7 of this title under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' under the paragraph ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' is hereby reduced by $2,000,000.

SA 2289. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division B, insert the following:

SEC. ___. TRANSIT ECONOMIC STIMULUS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) HEAVY-DUTY TRANSIT BUS.—The term ''heavy-duty transit bus'' has the same meaning given that term in the American Public Transportation Association Standard Procurement Guideline Specifications dated March 25, 1999 and July 3, 2001.

(2) INTERCITY COACH.—The term ''intercity coach'' has the same meaning given that term in Solicitation FFAH-B1-002272-N, section 1-4B, Amendment number 2, dated June 6, 2000.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—The Federal Transit Administration of the Department of Transportation shall carry out a pilot program to facilitate and accelerate the immediate procurement of heavy-duty transit buses and intercity coaches by State, local, and regional transportation authorities that are recipients of Federal Transit Administration assistance or grants through existing contracts with the General Services Administration.

(2) TERMINATION.—The pilot program carried out under paragraph (1) shall terminate on December 31, 2003.

(c) ESTABLISHMENT OF MULTIPLE AWARD SCHEDULE BY GSA.—Not later than December 31, 2003, the General Services Administration, with assistance from the Federal Transit Administration, shall establish and publish a multiple award schedule for heavy-duty transit buses and intercity coaches which shall permit Federal agencies and State, regional, or local transportation authorities that are recipients of Federal Transit Administration assistance or grants, or other ordering entities, to acquire heavy-duty transit buses and intercity coaches under those schedules.

(d) REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall submit a report quarterly, in writing, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The report required to be submitted under paragraph (1) shall describe, with specificity—

(A) all measures being taken to accelerate the processes authorized under this section, including estimates on the effect of this section on job retention in the bus and intercity coach manufacturing industry;

(B) job creation in the bus and intercity coach manufacturing industry as a result of the economic stimulus program established under this section; and

(C) bus and intercity coach manufacturing economic growth in those States and localities that have participated in the pilot program carried out under subsection (b).

(e) COMPLIANCE WITH OTHER LAWS.—This section shall be carried out in accordance with all existing Federal transit laws and requirements.

(f) TERMINATION.—This section shall terminate on December 31, 2006.

SA 2290. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION F—OTHER PROVISIONS

SEC. 101. (a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL MANUFACTURERS, ETC.—

''(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

''(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SA 2291. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL TISSUE ENGINEERING CENTER.—The amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' is hereby increased by $4,000,000, with the amount of the increase to be allocated to Medical Technology and available for the National Tissue Engineering Center.

(b) SUPPLEMENT NOT SUPPLANT.—The amount made available by subsection (a) for the National Tissue Engineering Center is in addition to any other amounts made available by this Act for the National Tissue Engineering Center.

(c) OFFSET.—The amount appropriated by title III of this division under the heading ''PROCUREMENT OF AMMUNITION, ARMY'' is hereby reduced by $4,000,000, with the amount of the reduction to be allocated to amounts available for the Armament Retooling Manufacturing Support (ARMS) initiative.

SA 2292. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, line 20, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2293. Mr. SANTORUM submitted an amendment intended to be proposed

by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 8, increase the amount by $1,000,000.

On page 213, line 10, reduce the amount by $1,000,000.

SA 2294. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 225, line 1, increase the amount by $3,000,000.

On page 213, line 10, reduce the amount by $3,000,000.

SA 2295. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 16, increase the amount by $5,000,000.

On page 213, line 10, reduce the amount by $5,000,000.

SA 2296. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, after line 21, add the following:

DIVISION F—MEDICARE RECLASSIFICATIONS

SEC. 6101. THREE-YEAR RECLASSIFICATION OF CERTAIN COUNTIES FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2002, 2003, and 2004, for purposes of making payments under subsections (d) and (j) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) to hospitals (including rehabilitation hospitals and rehabilitation units under such subsection (j))—

(1) in Columbia, Lackawanna, Luzerne, Wyoming, and Lycoming Counties, Pennsylvania, such counties are deemed to be located in the Newburgh, New York-PA Metropolitan Statistical Area;

(2) in Northumberland County, Pennsylvania, such county is deemed to be located in the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area; and

(3) in Mercer County, Pennsylvania, such county is deemed to be located in the Youngstown-Warren, Ohio Metropolitan Statistical Area.

(b) RULES.—The reclassifications made under subsection (a) shall be treated as decisions of the Medicare Geographic Classification Review Board under paragraph (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), except that, subject to paragraph (8)(D) of that section, payments shall be made under such section to any hospital reclassified into—

(1) the Newburgh, New York-PA Metropolitan Statistical Area as of October 1, 2001, as if the counties described in subsection (a)(1) had not been reclassified into such Area under such subsection;

(2) the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(2) had not been reclassified into such Area under such subsection; and

(3) the Youngstown-Warren, Ohio Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(3) had not been reclassified into such Area under such subsection.

SA 2297. Mr. BAYH (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) AUTHORIZATION.—The Secretary of Health and Human Services (referred to in this section as ''secretary'') is authorized to award grants to, or enter into cooperative agreements with, States to increase the level of bioterrorism preparedness.

(b) AMOUNT OF ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), of the amount made available for the purpose of carrying out this section the Secretary shall allot to each State that submits a State preparedness plan under subsection (c) an amount equal to the amount that bears the same ratio to such funds as the population in the State bears to the population of all States.

(2) EXCEPTION.—The Secretary may provide additional funds under paragraph (1) to a State that has extraordinary needs with respect to bioterrorism preparedness.

(3) MINIMUM ALLOTMENT.—No allotment to a State under this section, other than an allotment to the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, shall be less than $5,000,000.

(4) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the allotments determined under paragraphs (1) and (2), as are necessary to comply with the requirement of paragraph (3).

(5) SUPPLEMENT NOT SUPPLANT.—Amounts allotted to a State under this subsection shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under any other provision of law that are used to support programs and activities similar to the activities described in subparagraph (a).

(c) STATE PREPAREDNESS PLAN.—

(1) IN GENERAL.—Each State desiring an allotment under this section shall submit a State preparedness plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) REQUIREMENTS.—Each State developing a plan for submission under paragraph (1) shall consult with any entities that may be affected by such plan.

(d) REGULATIONS.—The Secretary shall implement regulations to ensure funds are used consistent with the State plan submitted under subsection (c).

(e) DEFINITION OF STATE.—For the purposes of this section, the term ''State'' means the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(f) FUNDING.—Of the amount allocated under this Act to prepare for or respond to bioterrorism, $670,000,000 shall be used for the purpose of carrying out this section.

SA 2298. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title III of this division for other procurement, Navy, $14,000,000 shall be available for the NULKA decoy procurement.

SA 2299. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 226, line 20, strike the colon and all that follows through page 227, line 15, and insert a period.

SA 2300. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17, and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for the Navy for procurement for shipbuilding and conversion, $50,000,000 shall be available for the DDG–51 destroyer program.

(b) Using funds available under subsection (a), the Secretary of the Navy may, in fiscal year 2002, enter into one or more contracts with the shipbuilder and other sources for advance procurement and advance construction of components for one additional DDG–51 Arleigh Burke class destroyer.

(c) It is the sense of Congress that the President should include in the budget for fiscal year 2003 submitted to Congress under section 1105 of title 31, United States Code, funding for the DDG–51 Arleigh Burke Destroyer program in amounts sufficient to support the commencement of construction of a third DDG–51 Arleigh Burke class destroyer at the lead shipyard for the program in fiscal year 2003.

SA 2301. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, $5,000,000 shall be available for low-rate initial production of

the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, $1,000,000 shall be available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

SA 2302. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, $4,000,000 shall be available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

SA 2303. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Defense-Wide, $5,000,000 shall be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

SA 2304. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, $4,300,000 shall be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

SA 2305. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Army, $5,000,000 shall be available for further development, fabrication, and testing of composite materials and missile components for the next general of tactical missiles.

SA 2306. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' and available for the Medical Advanced Technology Account, $2,500,000 may be made available for the Army Nutrition Project (PE0603002A).

SA 2307. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the total amount appropriated by title IV of this division under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', $2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under the Act.

SA 2308. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an amendment to the bill H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Homeless Veterans Comprehensive Assistance Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references to title 38, United States Code.
Sec. 2. Definitions.
Sec. 3. National goal to end homelessness among veterans.
Sec. 4. Sense of the Congress regarding the needs of homeless veterans and the responsibility of Federal agencies.
Sec. 5. Consolidation and improvement of provisions of law relating to homeless veterans.
Sec. 6. Evaluation centers for homeless veterans programs.
Sec. 7. Study of outcome effectiveness of grant program for homeless veterans with special needs.
Sec. 8. Expansion of other programs.
Sec. 9. Coordination of employment services.
Sec. 10. Use of real property.
Sec. 11. Meetings of Interagency Council on Homeless.
Sec. 12. Rental assistance vouchers for HUD Veterans Affairs Supported Housing program.

(c) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term ''homeless veteran'' has the meaning given such term in section 2002 of title 38, United States Code, as added by section 5(a)(1).

(2) The term ''grant and per diem provider'' means an entity in receipt of a grant under section 2011 or 2012 of title 38, United States Code, as so added.

SEC. 3. NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.

(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end chronic homelessness among veterans within a decade of the enactment of this Act.

(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals to work cooperatively to end chronic homelessness among veterans within a decade.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE NEEDS OF HOMELESS VETERANS AND THE RESPONSIBILITY OF FEDERAL AGENCIES.

It is the sense of the Congress that—

(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among homeless men;

(2) while many effective programs assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans;

(3) the most effective programs for the assistance of homeless veterans should be identified and expanded;

(4) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

(5) Federal efforts to assist homeless veterans should include prevention of homelessness; and

(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Housing and Urban Development, and the Department of Labor, should cooperate more fully to address the problem of homelessness among veterans.

SEC. 5. CONSOLIDATION AND IMPROVEMENT OF PROVISIONS OF LAW RELATING TO HOMELESS VETERANS.

(a) IN GENERAL.—(1) Part II is amended by inserting after chapter 19 the following new chapter:

''CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

''SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

''Sec.
''2001. Purpose.
''2002. Definitions.
''2003. Staffing requirements.

''SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

''2011. Grants.
''2012. Per diem payments.
''2013. Authorization of appropriations.

''SUBCHAPTER III—TRAINING AND OUTREACH

''2021. Homeless veterans reintegration programs.

''2022. Coordination of outreach services for veterans at risk of homelessness.
''2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness.
''SUBCHAPTER IV—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS
''2031. General treatment.
''2032. Therapeutic housing.
''2033. Additional services at certain locations.
''2034. Coordination with other agencies and organizations.
''SUBCHAPTER V—HOUSING ASSISTANCE
''2041. Housing assistance for homeless veterans.
''2042. Supported housing for veterans participating in compensated work therapies.
''2043. Domiciliary care programs.
''SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING
''2051. General authority.
''2052. Requirements.
''2053. Default.
''2054. Audit.
''SUBCHAPTER VII—OTHER PROVISIONS
''2061. Grant program for homeless veterans with special needs.
''2062. Dental care.
''2063. Employment assistance.
''2064. Technical assistance grants for nonprofit community-based groups.
''2065. Annual report on assistance to homeless veterans.
''2066. Advisory Committee on Homeless Veterans.

''SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

''§ 2001. Purpose

''The purpose of this chapter is to provide for the special needs of homeless veterans.

''§ 2002. Definitions

''In this chapter:

''(1) The term 'homeless veteran' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

''(2) The term 'grant and per diem provider' means an entity in receipt of a grant under section 2011 or 2012 of this title.

''§ 2003. Staffing requirements

''(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Secretary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

''(1) Housing programs administered by the Secretary under this title or any other provision of law.

''(2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.

''(3) The housing program for veterans supported by the Department of Housing and Urban Development.

''(4) The homeless veterans reintegration program of the Department of Labor under section 2021 of this title.

''(5) The programs under section 2033 of this title.

''(6) The assessments required by section 2034 of this title.

''(7) Such other programs relating to homeless veterans as may be specified by the Secretary.

''(b) VHA CASE MANAGERS.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is assigned to, and is seen as needed by, a case manager.

''SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

''§ 2011. Grants

''(a) AUTHORITY TO MAKE GRANTS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

''(A) Outreach.

''(B) Rehabilitative services.

''(C) Vocational counseling and training

''(D) Transitional housing assistance.

''(2) The authority of the Secretary to make grants under this section expires on September 30, 2005.

''(b) CRITERIA FOR GRANTS.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

''(1) Specification as to the kinds of projects for which grants are available, which shall include—

''(A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

''(B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).

''(2) Specification as to the number of projects for which grants are available.

''(3) Criteria for staffing for the provision of services under a project for which grants are made.

''(4) Provisions to ensure that grants under this section—

''(A) shall not result in duplication of ongoing services; and

''(B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.

''(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—

''(A) such State and local requirements that may apply; and

''(B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''(6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

''(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

''(d) ELIGIBLE ENTITIES.—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—

''(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

''(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

''(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

''(e) APPLICATION REQUIREMENT.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

''(1) The amount of the grant sought for the project.

''(2) A description of the site for the project.

''(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

''(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

''(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in the application for the grant agrees to each of the following requirements:

''(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

''(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

''(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

''(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

''(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

''(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

''(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

''(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center.

''(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

''(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

''(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

''(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

''(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

''§ 2012. Per diem payments

''(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

''(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

''(B) for whom the Secretary has authorized the provision of services.

''(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

''(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

''(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

''(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

''(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

''(b) INSPECTIONS.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

''(c) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note) before that date if the entity meets fire and safety requirements established by the Secretary.

''(3) From amounts available for purposes of this section, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

''§ 2013. Authorization of appropriations

''There are authorized to be appropriated to carry out this subchapter amounts as follows:

''(1) $60,000,000 for fiscal year 2002.
''(2) $75,000,000 for fiscal year 2003.
''(3) $75,000,000 for fiscal year 2004.
''(4) $75,000,000 for fiscal year 2005.

''SUBCHAPTER III—TRAINING AND OUTREACH

''§ 2021. Homeless veterans reintegration programs

''(a) IN GENERAL.—Subject to the availability of appropriations provided for such purpose, the Secretary of Labor shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

''(b) REQUIREMENT TO MONITOR EXPENDITURES OF FUNDS.—(1) The Secretary of Labor shall collect such information as that Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

''(2) Information under paragraph (1) shall be furnished in such form and manner as the Secretary of Labor may specify.

''(c) ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—The Secretary of Labor shall carry out this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

''(d) BIENNIAL REPORT TO CONGRESS.—Not less than every two years, the Secretary of Labor shall submit to Congress a report on the programs conducted under this section. The Secretary of Labor shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

''(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

''(A) $50,000,000 for fiscal year 2002.
''(B) $50,000,000 for fiscal year 2003.
''(C) $50,000,000 for fiscal year 2004.
''(D) $50,000,000 for fiscal year 2005.
''(E) $50,000,000 for fiscal year 2006.

''(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

''§ 2022. Coordination of outreach services for veterans at risk of homelessness

''(a) OUTREACH PLAN.—The Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to develop a coordinated plan for joint outreach by the two Services to veterans at risk of homelessness, including particularly veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.

''(b) MATTERS TO BE INCLUDED.—The outreach plan under subsection (a) shall include the following:

''(1) Strategies to identify and collaborate with non-Department entities used by veterans who have not traditionally used Department services to further outreach efforts.

''(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are optimally available to veterans.

''(3) Appropriate programs or referrals to family support programs.

''(4) Means to increase access to case management services.

''(5) Plans for making additional employment services accessible to veterans.

''(6) Appropriate referral sources for mental health and substance abuse services.

''(c) COOPERATIVE RELATIONSHIPS.—The outreach plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department to facilitate making services and resources optimally available to veterans.

''(d) REVIEW OF PLAN.—The Secretary shall submit the outreach plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

''(e) OUTREACH PROGRAM.—(1) The Secretary shall carry out an outreach program to provide information to homeless veterans and veterans at risk of homelessness. The program shall include at a minimum—

''(A) provision of information about benefits available to eligible veterans from the Department; and

''(B) contact information for local Department facilities, including medical facilities, regional offices, and veterans centers.

''(2) In developing and carrying out the program under paragraph (1), the Secretary shall, to the extent practicable, consult with appropriate public and private organizations, including the Bureau of Prisons, State social service agencies, the Department of Defense, and mental health, veterans, and homeless advocates—

''(A) for assistance in identifying and contacting veterans who are homeless or at risk of homelessness;

''(B) to coordinate appropriate outreach activities with those organizations; and

''(C) to coordinate services provided to veterans with services provided by those organizations.

''(f) REPORTS.—(1) Not later than October 1, 2002, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an initial report that contains an evaluation of outreach

activities carried out by the Secretary with respect to homeless veterans, including outreach regarding clinical issues and other benefits administered under this title. The Secretary shall conduct the evaluation in consultation with the Under Secretary for Benefits, the Department of Veterans Affairs central office official responsible for the administration of the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Department of Veterans Affairs central office official responsible for the administration of the Mental Health Strategic Health Care Group.

''(2) Not later than December 31, 2005, the Secretary shall submit to the committees referred to in paragraph (1) an interim report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

''(A) The Secretary's outreach plan under subsection (a), including goals and time lines for implementation of the plan for particular facilities and service networks.

''(B) A description of the implementation and operation of the outreach program under subsection (e).

''(C) A description of the implementation and operation of the demonstration program under section 2023 of this title.

''(3) Not later than July 1, 2007, the Secretary shall submit to the committees referred to in paragraph (1) a final report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

''(A) An evaluation of the effectiveness of the outreach plan under subsection (a).

''(B) An evaluation of the effectiveness of the outreach program under subsection (e).

''(C) An evaluation of the effectiveness of the demonstration program under section 2023 of this title.

''(D) Recommendations, if any, regarding an extension or modification of such outreach plan, such outreach program, and such demonstration program.

''§ 2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness

''(a) PROGRAM AUTHORITY.—The Secretary and the Secretary of Labor (hereinafter in this section referred to as the 'Secretaries') shall carry out a demonstration program for the purpose of determining the costs and benefits of providing referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

''(b) LOCATION OF DEMONSTRATION PROGRAM.—The demonstration program shall be carried out in at least six locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

''(c) SCOPE OF PROGRAM.—(1) To the extent practicable, the demonstration program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

''(2)(A) To the extent that referral or counseling services are provided at a location under the program, referral services shall be provided in person during such period of time that the Secretaries may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

''(B) The Secretaries may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

''(3) The Secretaries may enter into contracts to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the Secretaries may establish.

''(4) In developing the program, the Secretaries shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the Secretaries determine appropriate.

''(d) DURATION.—The authority of the Secretaries to provide referral and counseling services under the demonstration program shall cease on the date that is four years after the date of the commencement of the program.

''(e) DEFINITION.—In this section, the term 'eligible veteran' means a veteran who—

''(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

''(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the Secretaries).

''SUBCHAPTER V—HOUSING ASSISTANCE

''§ 2042. Supported housing for veterans participating in compensated work therapies

''The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 2032 of this title or through grant and per diem providers under subchapter II of this chapter.

''§ 2043. Domiciliary care programs

''(a) AUTHORITY.—The Secretary may establish up to 10 programs under section 1710(b) of this title (in addition to any program that is established as of the date of the enactment of this section) to provide domiciliary services under such section to homeless veterans.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2003 and 2004 to establish the programs referred to in subsection (a).

''SUBCHAPTER VII—OTHER PROVISIONS

''§ 2061. Grant program for homeless veterans with special needs

''(a) ESTABLISHMENT.—The Secretary shall carry out a program to make grants to health care facilities of the Department and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs.

''(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

''(1) women, including women who have care of minor dependents;

''(2) frail elderly;

''(3) terminally ill; or

''(4) chronically mentally ill.

''(c) FUNDING.—(1) From amounts appropriated to the Department for 'Medical Care' for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

''(2) The Secretary shall ensure that funds for grants under this section are designated for the first three years of operation of the program under this section as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

''§ 2062. Dental care

''(a) IN GENERAL.—For purposes of section 1712(a)(1)(H) of this title, outpatient dental services and treatment of a dental condition or disability of a veteran described in subsection (b) shall be considered to be medically necessary, subject to subsection (c), if—

''(1) the dental services and treatment are necessary for the veteran to successfully gain or regain employment;

''(2) the dental services and treatment are necessary to alleviate pain; or

''(3) the dental services and treatment are necessary for treatment of moderate, severe, or severe and complicated gingival and periodontal pathology.

''(b) ELIGIBLE VETERANS.—Subsection (a) applies to a veteran—

''(1) who is enrolled for care under section 1705(a) of this title; and

''(2) who, for a period of 60 consecutive days, is receiving care (directly or by contract) in any of the following settings:

''(A) A domiciliary under section 1710 of this title.

''(B) A therapeutic residence under section 2032 of this title.

''(C) Community residential care coordinated by the Secretary under section 1730 of this title.

''(D) A setting for which the Secretary provides funds for a grant and per diem provider.

''(3) For purposes of paragraph (2), in determining whether a veteran has received treatment for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of treatment for which the veteran is not responsible.

''(c) LIMITATION.—Dental benefits provided by reason of this section shall be a one-time course of dental care provided in the same manner as the dental benefits provided to a newly discharged veteran.

''§ 2063. Employment assistance

''The Secretary may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program under section 1718 of this title.

''§ 2064. Technical assistance grants for nonprofit community-based groups

''(a) GRANT PROGRAM.—The Secretary shall carry out a program to make grants to entities or organizations with expertise in preparing grant applications. Under the program, the entities or organizations receiving grants shall provide technical assistance to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans.

''(b) FUNDING.—There is authorized to be appropriated $750,000 for each of fiscal years 2002 through 2005 to carry out the program under this section.

''§ 2065. Annual report on assistance to homeless veterans

''(a) ANNUAL REPORT.—Not later than April 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

''(b) GENERAL CONTENTS OF REPORT.—Each report under subsection (a) shall include the following:

''(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

''(2) The cost to the Department of providing such assistance under those programs.

''(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

''(A) residential work-therapy programs;

''(B) programs combining outreach, community-based residential treatment, and case-management; and

''(C) contract care programs for alcohol and drug-dependence or use disabilities).

''(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

''(5) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

''(c) HEALTH CARE CONTENTS OF REPORT.—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

''(1) Information about expenditures, costs, and workload under the program of the Department known as the Health Care for Homeless Veterans program (HCHV).

''(2) Information about the veterans contacted through that program.

''(3) Information about program treatment outcomes under that program.

''(4) Information about supported housing programs.

''(5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.

''(6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.

''(7) Other information the Secretary considers relevant in assessing those programs.

''(d) BENEFITS CONTENT OF REPORT.—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

''(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

''(2) Information on the filing of claims for benefits by homeless veterans.

''(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

''(4) Other information that the Secretary considers relevant in assessing the programs and activities.

''§ 2066. Advisory Committee on Homeless Veterans

''(a) ESTABLISHMENT.—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the 'Committee').

''(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

''(A) Veterans service organizations.

''(B) Advocates of homeless veterans and other homeless individuals.

''(C) Community-based providers of services to homeless individuals.

''(D) Previously homeless veterans.

''(E) State veterans affairs officials.

''(F) Experts in the treatment of individuals with mental illness.

''(G) Experts in the treatment of substance use disorders.

''(H) Experts in the development of permanent housing alternatives for lower income populations.

''(I) Experts in vocational rehabilitation.

''(J) Such other organizations or groups as the Secretary considers appropriate.

''(3) The Committee shall include, as ex officio members, the following:

''(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).

''(B) The Secretary of Defense (or a representative of the Secretary).

''(C) The Secretary of Health and Human Services (or a representative of the Secretary).

''(D) The Secretary of Housing and Urban Development (or a representative of the Secretary).

''(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

''(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

''(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

''(2) In providing advice to the Secretary under this subsection, the Committee shall—

''(A) assemble and review information relating to the needs of homeless veterans;

''(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

''(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

''(3) The Committee shall—

''(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

''(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

''(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

''(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

''(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

''(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

''(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

''(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

''(I) perform such other functions as the Secretary may direct.

''(c) REPORTS.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

''(A) an assessment of the needs of homeless veterans;

''(B) a review of the programs and activities of the Department designed to meet such needs;

''(C) a review of the activities of the Committee; and

''(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

''(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

''(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

''(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

''(d) TERMINATION.—The Committee shall cease to exist December 31, 2006.''.

(2) The tables of chapters before part I and at the beginning of part II are each amended by inserting after the item relating to chapter 19 the following new item:

''20. Benefits for Homeless Veterans .. 2001''.

(b) HEALTH CARE.—(1) Subchapter VII of chapter 17 is transferred to chapter 20 (as added by subsection (a)), inserted after section 2023 (as so added), and redesignated as subchapter IV, and sections 1771, 1772, 1773, and 1774 therein are redesignated as sections 2031, 2032, 2033, and 2034, respectively.

(2) Subsection (a)(3) of section 2031, as so transferred and redesignated, is amended by striking ''section 1772 of this title'' and inserting ''section 2032 of this title''.

(c) HOUSING ASSISTANCE.—Section 3735 is transferred to chapter 20 (as added by subsection (a)), inserted after the heading for subchapter V, and redesignated as section 2041.

(d) MULTIFAMILY TRANSITIONAL HOUSING.—(1) Subchapter VI of chapter 37 (other than section 3771) is transferred to chapter 20 (as added by subsection (a)) and inserted after section 2043 (as so added), and sections 3772, 3773, 3774, and 3775 therein are redesignated as sections 2051, 2052, 2053, and 2054, respectively.

(2) Such subchapter is amended—

(A) in the heading, by striking ''FOR HOMELESS VETERANS'';

(B) in subsection (d)(1) of section 2051, as so transferred and redesignated, by striking ''section 3773 of this title'' and inserting ''section 2052 of this title''; and

(C) in subsection (a) of section 2052, as so transferred and redesignated, by striking ''section 3772 of this title'' and inserting ''section 2051 of this title''.

(3) Section 3771 is repealed.

(e) REPEAL OF CODIFIED PROVISIONS.—The following provisions of law are repealed:

(1) Sections 3, 4, and 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note).

(2) Section 1001 of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 38 U.S.C. 7721 note).

(3) Section 4111.

(4) Section 738 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11448).

(f) EXTENSION OF EXPIRING AUTHORITIES.—Subsection (b) of section 2031, as redesignated by subsection (b)(1), and subsection (d) of section 2033, as so redesignated, are amended by striking ''December 31, 2001'' and inserting ''December 31, 2006''.

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 17 is amended by striking the item relating to subchapter VII and the items relating to sections 1771, 1772, 1773, and 1774.

(2) The table of sections at the beginning of chapter 37 is amended—

(A) by striking the item relating to section 3735; and

(B) by striking the item relating to subchapter VI and the items relating to sections 3771, 3772, 3773, 3774, and 3775.

(3) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4111.

SEC. 6. EVALUATION CENTERS FOR HOMELESS VETERANS PROGRAMS.

(a) EVALUATION CENTERS.—The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department of Veterans Affairs that address homeless veterans.

(b) ANNUAL PROGRAM ASSESSMENT.—Section 2034(b), as transferred and redesignated by section 5(b)(1), is amended—

(1) by inserting ''annual'' in paragraph (1) after ''to make an''; and

(2) by adding at the end the following new paragraph:

''(6) The Secretary shall review each annual assessment under this subsection and shall consolidate the findings and conclusions of each such assessment into the next annual report submitted to Congress under section 2065 of this title.''.

SEC. 7. STUDY OF OUTCOME EFFECTIVENESS OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.

(a) STUDY.—The Secretary of Veterans Affairs shall conduct a study of the effectiveness during fiscal year 2002 through fiscal year 2004 of the grant program under section 2061 of title 38, United States Code, as added by section 5(a), in meeting the needs of homeless veterans with special needs (as specified in that section). As part of the study, the Secretary shall compare the results of programs carried out under that section, in terms of veterans' satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity, with results for similar veterans in programs of the Department or of grant and per diem providers that are designed to meet the general needs of homeless veterans.

(b) REPORT.—Not later than March 31, 2005, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the results of the study under subsection (a).

SEC. 8. EXPANSION OF OTHER PROGRAMS.

(a) ACCESS TO MENTAL HEALTH SERVICES.—Section 1706 is amended by adding at the end the following new subsection:

''(c) The Secretary shall ensure that each primary care health care facility of the Department develops and carries out a plan to provide mental health services, either through referral or direct provision of services, to veterans who require such services.''.

(b) COMPREHENSIVE HOMELESS SERVICES PROGRAM.—Subsection (b) of section 2033, as transferred and redesignated by section 5(b)(1), is amended—

(1) by striking ''not fewer'' in the first sentence and all that follows through ''services) at''; and

(2) by adding at the end the following new sentence: ''The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas.''.

(c) ACCESS TO SUBSTANCE USE DISORDER SERVICES.—Section 1720A is amended by adding at the end the following new subsection:

''(d)(1) The Secretary shall ensure that each medical center of the Department develops and carries out a plan to provide treatment for substance use disorders, either through referral or direct provision of services, to veterans who require such treatment.

''(2) Each plan under paragraph (1) shall make available clinically proven substance abuse treatment methods, including opioid substitution therapy, to veterans with respect to whom a qualified medical professional has determined such treatment methods to be appropriate.''.

SEC. 9. COORDINATION OF EMPLOYMENT SERVICES.

(a) DISABLED VETERANS' OUTREACH PROGRAM.—Section 4103A(c) is amended by adding at the end the following new paragraph:

''(11) Coordination of employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.''.

(b) LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 4104(b) is amended—

(1) by striking ''and'' at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(13) coordinate employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.''.

SEC. 10. USE OF REAL PROPERTY.

(a) LIMITATION ON DECLARING PROPERTY EXCESS TO THE NEEDS OF THE DEPARTMENT.—Section 8122(d) is amended by inserting before the period at the end the following: ''and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title''.

(b) WAIVER OF COMPETITIVE SELECTION PROCESS FOR ENHANCED-USE LEASES FOR PROPERTIES USED TO SERVE HOMELESS VETERANS.—Section 8162(b)(1) is amended—

(1) by inserting ''(A)'' after ''(b)(1)''; and

(2) by adding at the end the following:

''(B) In the case of a property that the Secretary determines is appropriate for use as a facility to furnish services to homeless veterans under chapter 20 of this title, the Secretary may enter into an enhanced-use lease with a provider of homeless services without regard to the selection procedures required under subparagraph (A).''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to leases entered into on or after the date of the enactment of this Act.

SEC. 11. MEETINGS OF INTERAGENCY COUNCIL ON HOMELESS.

Section 202(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11312(c)) is amended to read as follows:

''(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than annually.''.

SEC. 12. RENTAL ASSISTANCE VOUCHERS FOR HUD VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

''(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

''(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

''(B) AMOUNT.—The amount specified in this subparagraph is—

''(i) for fiscal year 2003, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

''(ii) for fiscal year 2004, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

''(iii) for fiscal year 2005, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection; and

''(iv) for fiscal year 2006, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection.

''(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.''.

SA 2309. Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading ''OTHER PROCUREMENT ARMY'', $4,892,000 shall be used for the Communicator Automated Emergency Notification System of the Army National Guard.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 6, 2001, at 10 a.m., to conduct a hearing on the nomination of Mr. J. Joseph Grandmaison, of New Hampshire, to be a member of the Board of Directors of the Export-Import Bank of the United States; and Mr. Kenneth M. Donohue, of Virginia, to be inspector general of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 9:30 a.m. on corporate average fuel economy reform (CAFÉ).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, December 6, 2001, at 2:30 p.m. on the nominations of Jeffrey Shane (DOT) and Emil Frankel to be Assistant Secretary of Transportation Policy (DOT).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, December 6 at 9:30 a.m. To conduct a hearing. The committee will receive testimony on the negotiations for renewing the Compact of Free Association.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 6, 2001 at 10:30 a.m. to hold a hearing titled, 'The Future of Afghanistan'.

Agenda

WITNESSES

Panel 1: The Honorable Christina Rocca, Assistant Secretary for South Asia Affairs, U.S. Department of State, Washington, DC; and the Honorable Richard Haass, Director of Policy Planning, U.S. Department of State, Washington, DC.

Panel 2: Mr. Thomas E. Gouttierre, Dean of International Studies and Director of the Center for Afghanistan Studies, University of Nebraska, Omaha, Nebraska; and Ms. Fatima Gailani, Advisor, National Islamic Front of Afghanistan, Providence, RI.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, December 6, 2001 at 9 a.m. to hold a hearing entitled ''Weak Links: Assessing the Vulnerability of U.S. Ports and Whether the Government is Adequately Structured to Safeguard Them.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Department of Justice Oversight: Preserving Our Freedoms while Defending Against Terrorism'' on Thursday, December 6, 2001 at 10 a.m. in Dirksen Room 106. Witness: The Honorable John Ashcroft, United States Attorney General, Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Madam President, I ask unanimous consent that Duane Seward of Senator KENNEDY's office, Douglas Jackson of my staff, and John Kem, an intern on the Appropriations Committee staff, be granted floor privileges during consideration of the Defense appropriations bill for the fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I ask unanimous consent that John Kem, Kraig Siracuse, Sid Ashworth, Alycia Farrell, and Andrew Givens of the Appropriations Committee staff, and Mark Robbins of my staff, be granted floor privileges during consideration of H.R. 3338.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy LCDR Dell Bull, be granted floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that Peter Winokur, a congressional fellow in my office, be allowed floor privileges during consideration of the National Defense Appropriations Act for Fiscal Year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Madam President, I ask unanimous consent that David Dorsey and David Bowen of Senator KENNEDY's office and Susan Seaman of Senator MIKULSKI's office be granted floor privileges during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 570 and 571; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

FEDERAL RESERVE SYSTEM

Mark W. Olson, of Minnesota, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1996.

Susan Schmidt Bies, of Tennessee, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

AMENDING THE CHARTER OF SOUTHEASTERN UNIVERSITY OF THE DISTRICT OF COLUMBIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 245, H.R. 2061.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2061) to amend the charter of Southeastern University of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2061) was read the third time and passed.

HONORING DR. JAMES HARVEY EARLY

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1714, 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 legislative clerk read as follows:

A bill (S. 1714) to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to

reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1714) was read the third time and passed, as follows:

S. 1714

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

SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

''Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died 1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77.''.

HERB HARRIS POST OFFICE BUILDING

Mr. REID. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1761, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1761) to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the ''Herb Harris Post Office Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to consider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1761) was read the third time and passed.

HOMELESS VETERANS COMPREHENSIVE ASSISTANCE ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 201, H.R. 2716.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2716) to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I urge prompt Senate passage of H.R. 2716, the ''Comprehensive Homeless Veterans Assistance Act of 2001,'' a bill that enhances VA's efforts to combat homelessness among our Nation's veterans. This bill represents a compromise between S. 739, as passed by the Senate on November 15, 2001; and H.R. 2716, which passed the House on October 16, 2001.

This bill sets a rather lofty—but, in my view, attainable—goal of ending chronic homelessness among veterans within a decade. Unless we aim high, we will never end the problem. The bill also encourages interagency cooperation to facilitate meeting that goal. With the Departments of Veterans Affairs, Housing and Urban Development, and Health and Human Services administering most programs targeting homelessness, it seeks to revive the Interagency Council on the Homeless, of which all three agencies are members.

I will highlight some of the other key provisions in this important piece of legislation.

Proposed new section 2062 of title 38, United States Code, is intended to authorize VA to provide essential dental care services to those homeless veterans who demonstrate a commitment to rehabilitation and reintegration into society. In the course of developing this provision, the Committee members agreed that there is a unique and urgent need for basic dental care within the homeless population.

Consequently, the bill provides a one-time course of dental care to those homeless veterans who enroll and remain in a specified VA, grant or contract assistance, or specialized health program for 60 consecutive days. The treatment is limited to a ''one-time'' course of care that would allow VA to carry out a treatment plan as medically indicated by the veteran's needs. The Committee members also recognized there may be a break in treatment services that could occur through no fault of the veteran. In those cases, the compromise agreement makes allowance for the Secretary to aggregate days of treatment, by disregarding these breaks in continuous treatment.

Section 8(a) of the compromise agreement contains a provision requiring that every VA facility develop a plan to treat patients who present themselves at the facility and are in need of mental health care. This can include referral to another facility that has the mental health treatment capability if the original facility does not. A similar provision was included in section 8(c) with regard to the availability of substance abuse treatment at every VA medical center. It requires VA to have a plan ready to implement should a veteran walk into a VA medical center and require such treatment. Opioid substitution therapy is specifically mentioned in this section because it has proven to be very successful for the treatment of heroin addiction.

In closing, I acknowledge the tireless efforts of the original namesake of the bill, Heather French Henry, Miss America 2000. She dedicated her tenure to raising the Nation's awareness of the plight of homeless veterans, traveling some 20,000 miles a month to visit with veterans in recovery programs and offer encouragement.

Mrs. Henry's father and uncle provided the inspiration for her to commit herself to the issue, as they both had suffered and recovered from substance abuse and ultimately homelessness following their military service. The work that Heather French Henry has done on behalf of homeless veterans did not stop at the end of her reign, but has continued on. This bill is a testament to her profound dedication.

I also thank my good friend and colleague Senator WELLSTONE for his strong dedication to this issue. His unwavering commitment to homeless veterans was exemplified by his introduction of the Senate version of the bill and his tenacious efforts to get it passed. I applaud his efforts on behalf of this forgotten segment of the veterans population.

Finally, Mr. President, I recognize the hard work of Alexandra Sardegna of the Democratic staff of the Committee on Veterans' Affairs; Bill Cahill of the Republican staff of the Committee; and John Bradley and Susan Edgerton of the House Veterans' Affairs Committee in developing this legislation and seeing it through the legislative process.

I ask unanimous consent that a summary of provisions be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 2716 (AS AMENDED): THE ''COMPREHENSIVE HOMELESS VETERANS ASSISTANCE ACT OF 2001''

The Compromise Agreement incorporates provisions from S. 739, passed by the Senate on November 15, 2001; with provisions of H.R. 2716, passed by the House on October 16, 2001. It seeks to enhance and provide additional support for VA programs that combat homelessness among veterans.

SUMMARY OF PROVISIONS

The following is a summary of key provisions in the Compromise Agreement, H.R. 2716:

Programmatic Expansions: Authorizes VA to spend up to $60 million per year on the transitional housing Grant and Per Diem program. Requires VA to establish at least twenty new comprehensive service centers for homeless veterans in those metropolitan areas found to have the greatest need. Extends the Homeless Chronically Mentally Ill and Comprehensive Homeless Programs until December 31, 2006.

Mental Health Treatment Capability: Requires VA to develop and carry out a comprehensive plan to treat those patients, either on-site or through referral to another

facility, who present themselves at VA facilities and are in need of mental health services.

Advisory Committee on Homeless Veterans: Establishes a Committee that will examine and report to the Secretary on various services provided to homeless veterans.

Interagency Council on the Homeless: Requires annual meetings of the Interagency Council on the Homeless, as the Council has yet to get underway.

Dental Care: Provides a one-time course of dental care to homeless veterans who complete 60 consecutive days of a rehabilitative program. Makes an exception for those veterans who have a break in services through no fault of their own.

Evaluation of Homeless Programs: Encourages the continued support of at least one evaluation center to monitor the effectiveness of VA's various homeless programs. Requires VA to report on both the benefits and health care aspects of combating homelessness.

Life Safety Code: Requires that real property of grantees under VA's homeless Grant and Per Diem program meet fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association.

Technical Assistance Grants: Authorizes the Secretary to conduct a technical assistance grants program to assist nonprofit groups in applying for grants relating to addressing problems of homeless veterans. Provides $750,000 for each of fiscal years 2002 through 2006 for these purposes.

Homeless Veterans Reintegration Program: Extends the Homeless Veterans Reintegration Program and authorizes $50 million a year for each of fiscal years 2002 through 2006.

Mr. REID. Madam President, I understand that Senators ROCKEFELLER and SPECTER have a substitute amendment at the desk. I ask unanimous consent that the amendment be agreed to, the act, as amended, be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2308) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The bill (H.R. 2716), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2944

Mr. REID. Madam President, I ask unanimous consent that on Friday, December 7, at 9:30 a.m., immediately following the normal opening proceedings of the Senate, the Chair lay before the Senate the conference report to accompany H.R. 2944, the District of Columbia Appropriations Act; that there be a time limitation with the time equally divided and controlled between the chair and ranking member of the subcommittee; and that upon the use of all the time, without further intervening action, the Senate proceed to vote on adoption of the conference report. I further ask for the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered. It is in order to ask for the yeas and nays.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

ORDERS FOR FRIDAY, DECEMBER 7, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, December 7; that immediately following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of the District of Columbia Appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, I appreciate the patience of the Presiding Officer.

If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:46 p.m., adjourned until Friday, December 7, 2001, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6, 2001:

FEDERAL RESERVE SYSTEM

MARK W. OLSON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1996.

SUSAN SCHMIDT BIES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1998.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

HARRIS L. HARTZ, OF NEW MEXICO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DANNY C. REEVES, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY.

JOE L. HEATON, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

Daily Digest

HIGHLIGHTS

The House passed H.R. 3008, to reauthorize the Trade Adjustment Assistance Program.

The House passed H.R. 3005, to extend Trade Promotion Authority.

The House agreed to the conference report on H.R. 2944, District of Columbia appropriations.

Senate

Chamber Action

Routine Proceedings, pages S12465–S12579

Measures Introduced: Five bills were introduced, as follows: S. 1778–1782. **Page S12551**

Measures Reported:

Reported on Thursday, December 6, during the adjournment:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2002". (S. Rept. No. 107–110)

S. 1519, to amend the Consolidated Farm and Rural Development Act to provide farm credit assistance for activated reservists.

S. Con. Res. 55, honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996. **Page S12551**

Measures Passed:

D.C. Southeastern University Charter: Senate passed H.R. 2061, to amend the charter of Southeastern University of the District of Columbia, clearing the measure for the President. **Page S12577**

James Harvey Early Plaque Installation: Committee on Governmental Affairs was discharged from further consideration of S. 1714, to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building, and the bill was then passed. **Pages S12577–78**

Herb E. Harris Post Office Building: Committee on Governmental Affairs was discharged from further consideration of H.R. 1761, to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb E. Harris Post Office Building" and the bill was then passed, clearing the measure for the President. **Page S12578**

Homeless Veterans Assistance: Senate passed H.R. 2716, to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans, after agreeing to the following amendment proposed thereto: **Pages S12578–79**

Reid (for Rockefeller/Specter) Amendment No. 2308, in the nature of a substitute. **Page S12579**

Federal Farm Bill: Senate agreed to the motion to proceed to consideration of S. 1731, to strengthen the safety net for agricultural producers, to enhance resource conservation and rural development, to provide for farm credit, agricultural research, nutrition, and related programs, and to ensure consumers abundant food and fiber. **Page S12476**

Department of Defense Appropriations: Senate began consideration of H.R. 3338, making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, with a committee amendment in the nature of a substitute, taking action on the following amendments proposed thereto: **Pages S12476–S12529**

Withdrawn:

Stevens Amendment No. 2243, of a perfecting nature. **Pages S12515–21**

During consideration of this measure, Senate also took the following action:

By 50 yeas to 48 nays (Vote No. 354), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected Division I of the motion to waive section 205 of H. Con. Res. 290, Congressional Budget Resolution of 2001, with respect to the emergency designation on page 397 in

Division "C" of the committee substitute amendment. Subsequently, a point of order that the emergency designation was in violation of section 205 of H. Con. Res. 290 was sustained, and the emergency designation was stricken. **Pages S12521–28**

By 50 yeas to 48 nays (Vote No. 355), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected Division II of the motion to waive section 205 of H. Con. Res. 290, Congressional Budget Resolution of 2001, with respect to the emergency designation on page 398 in Division "C" of the committee substitute amendment. Subsequently, a point of order that the emergency designation was in violation of section 205 of H. Con. Res. 290 was sustained, and the emergency designation was stricken. **Pages S12521–29**

District of Columbia Appropriations Conference Report—Agreement: A unanimous-consent-time agreement was reached providing for consideration of the conference report on H.R. 2944, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, at 9:30 a.m., on Friday, December 7, 2001, with a vote on adoption of the conference report to occur thereon. **Page S12579**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 99 yeas (Vote No. EX. 353), Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit. **Pages S12472–75, S12579**

Mark W. Olson, of Minnesota, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1996.

Susan Schmidt Bies, of Tennessee, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 1998.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma. **Pages S12475–76, S12577, S12579**

Messages From the House: **Pages S12536–37**

Measures Referred: **Page S12537**

Measures Placed on Calendar: **Page S12537**

Executive Communications: **Pages S12537–51**

Executive Reports of Committees: **Page S12551**

Additional Cosponsors: **Pages S12551–52**

Statements on Introduced Bills/Resolutions: **Pages S12552–55**

Additional Statements: **Pages S12535–36**

Amendments Submitted: **Pages S12555–76**

Authority for Committees to Meet: **Pages S12576–77**

Privilege of the Floor: **Page S12577**

Record Votes: Three record votes were taken today. (Total—355) **Pages S12475, S12528, S12529**

Adjournment: Senate met at 10:30 a.m., and adjourned at 8:46 p.m., until 9:30 a.m., on Friday, December 7, 2001. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12579.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Armed Services: Committee ordered favorably reported the following business items:

S. Con. Res. 55, honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers in Saudi Arabia on June 25, 1996; and

The nominations of Peter B. Teets, of Maryland, to be Under Secretary of the Air Force, and Claude M. Bolton, Jr., of Florida, to be an Assistant Secretary of the Army, and 694 military nominations in the Army, Navy, and Air Force.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings on the nominations of J. Joseph Grandmaison, of New Hampshire, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Kenneth M. Donohue, Sr., of Virgina, to be Inspector General, Department of Housing and Urban Development.

CORPORATE AVERAGE FUEL ECONOMY

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine the Department of Transportation corporate average fuel economy (CAFÉ) program, focusing on minimization of environmental impacts via petroleum consumption, researching investments for fuel efficient vehicles, and improving fleet fuel economy, after receiving testimony from Senators Bingaman, Feinstein, and Snowe; Representative Boehlert; Jeffrey W. Runge, Administrator, and Bob Shelter, Executive Director, both of the National Highway Traffic Safety Administration, Department of Transportation; Claude C. Gravatt, Jr., Director, Manufacturing

Competitiveness and Partnership for a New Generation of Vehicles, Department of Commerce; Susan M. Cischke, Ford Motor Company, Dearborn, Michigan; Bernard I. Robertson, DaimlerChrysler Corporation, Auburn Hills, Michigan; David Friedman, Union of Concerned Scientists, Berkeley, California; Theodore Louckes, Paice Corporation, Silver Spring, Maryland; and Thomas J. Davis, General Motors, Edward B. Cohen, Honda North America, Ann R. Mesnikoff, Sierra Club, Clarence Ditlow, Center for Auto Safety, James Olson, Toyota Motor North America, Inc., and Alan Reuther, International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, all of Washington, D.C.

NOMINATIONS

Committee on Commerce, Science, and Transportation: Committee concluded hearings on the nominations of Jeffrey Shane, of the District of Columbia, to be Associate Deputy Secretary, and Emil H. Frankel, of Connecticut, to be Assistant Secretary for Transportation Policy, both of the Department of Transportation. Mr. Shane was introduced by Representative Oberstar, and Mr. Frankel was introduced by Senators Lieberman and Dodd, and Representatives Petri and Shays.

COMPACT OF FREE ASSOCIATION

Committee on Energy and Natural Resources: Committee concluded hearings to examine negotiations on extensions of funds and program assistance under the Compact of Free Association between the United States and the Pacific Island nations of the Federated States of Micronesia and the Republic of the Marshall Islands, after receiving testimony from Guam Delegate Robert A. Underwood; Albert V. Short, Director, Office of Compact Negotiations, Bureau of East Asian and Pacific Affairs, Department of State; Peter M. Christian, Chief Negotiator for the Joint Committee on Compact Economic Negotiations, Federated States of Micronesia; Gerald M. Zackios, Minister of Foreign Affairs, Republic of the Marshall Islands, Majuro; Christopher Kearney, Deputy Assistant Secretary of the Interior for Policy and International Affairs; and Susan S. Westin, Managing Director, International Affairs and Trade, General Accounting Office.

FUTURE OF AFGHANISTAN

Committee on Foreign Relations: Committee concluded hearings to examine the political future of Afghanistan, focusing on rebuilding stability in the nation, the interim authority, and the successor government, after receiving testimony from Christina Rocca, Assistant Secretary for South Asian Affairs, and Richard Haas, Director of Policy Planning, both of the Department of State; Thomas E. Gouttierre, University of Nebraska Center for Afghanistan Studies, Omaha; and Fatima Gailani, National Islamic Front Afghanistan, Providence, Rhode Island.

U.S. SEAPORT SECURITY

Committee on Governmental Affairs: Committee concluded hearings to assess the vulnerability of United States seaports to certain criminal activity, and whether the Federal Government is adequately structured to safeguard them, after receiving testimony from Senator Hollings; F. Amanda DeBusk, Miller and Chevalier, Washington, D.C., former Assistant Secretary of Commerce for Export Enforcement, on behalf of the Interagency Commission on Crime and Security in U.S. Seaports; Stephen E. Flynn, Council on Foreign Relations, and Rear Adm. Richard M. Larrabee, USCG (Ret.), Port Authority of New York and New Jersey, both of New York, New York; Rob Quartel, FreightDesk Technologies, McLean, Virginia; Argent Acosta, Port of New Orleans, New Orleans, Louisiana; Charles C. Cook, Memphis Police Department, Memphis, Tennessee; W. Gordon Fink, Emerging Technology Markets, Annapolis, Maryland, and Michael D. Laden, Target Customs Brokers, Inc./Target Corporation, Minneapolis, Minnesota.

DEPARTMENT OF JUSTICE OVERSIGHT

Committee on the Judiciary: Committee concluded oversight hearings to examine the Department of the Judiciary's response on how to preserve freedoms while defending against terrorism, focusing on their comprehensive criminal investigation to identify the killers of September 11 and to prevent further terrorist attacks, including enhanced information sharing between law-enforcement and intelligence communities, after receiving testimony from John Ashcroft, Attorney General, Department of Justice.

House of Representatives

Chamber Action

Measures Introduced: 20 public bills, H.R. 3420–3439; and 6 resolutions, H. Con. Res. 282–285 and H. Con. Res. 308–309, were introduced. **Pages H9076–77**

Reports Filed: Reports were filed today as follows:

H.R. 38, to provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, amended (H. Rept. 107–325);

H.R. 2742, to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma (H. Rept. 107–326);

H.R. 2234, to revise the boundary of the Tumacacori National Historical Park in the State of Arizona, amended (H. Rept. 107–327); and

Conference report on H.R. 2883, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (H. Rept. 107–328).

Pages H9057–65, H9076

Consideration of Suspensions: The House agreed to H. Res. 305, the rule that provided for consideration of suspensions on Dec. 6 by a yea-and-nay vote of 207 yeas to 179 nays, Roll No. 476.

Pages H8951–53

Suspension—Trade Adjustment Assistance Program: The House agreed to suspend the rules and pass H.R. 3008, amended, to reauthorize the trade adjustment assistance program under the Trade Act of 1974 by a yea-and-nay vote of 420 yeas to 3 nays with 1 voting ''present,'' Roll No. 477. Agreed to amend the title. **Pages H8953–60, H8970–71**

Suspension Failed—Customs Border Security Act: The House failed to suspend the rules and pass H.R. 3129, amended, to authorize appropriations for fiscal years 2002 and 2003 for the United States Customs Service for antiterrorism, drug interdiction, and other operations, for the Office of the United States Trade Representative, for the United States International Trade Commission by a yea-and-nay vote of 256 yeas to 168 nays (two-thirds required to pass), Roll No. 478. **Pages H8960–70, H8971–72**

Bipartisan Trade Promotion Authority: The House passed H.R. 3005, to extend trade authorities procedures with respect to reciprocal trade agreements by a recorded vote of 215 ayes to 214 noes, Roll No. 481. **Pages H8981–H9044**

Rejected the Rangel motion to recommit the bill to the Committee on Ways and Means with instructions to report it back with an amendment in the nature of a substitute that establishes the Comprehensive Trade Negotiation Authority Act of 2001 by a recorded vote of 162 ayes to 267 noes, Roll No. 480. **Pages H9029–44**

Pursuant to the rule the amendment recommended by the Committee on Ways and Means now printed in the bill, H. Rept. 107–249 Part 1, and modified by the amendment printed in the report of the Committee on Rules, H. Rept. 107–323, were considered as adopted. **Page H8987**

H. Res. 306, the rule that provided for consideration of the bill was agreed to by a yea-and-nay vote of 224 yeas to 202 nays, Roll No. 479.

Pages H8972–81

Late Report—Intelligence Authorization Conference Report: Conferees received permission to have until midnight on Thursday, Dec. 6 to file a conference report on H.R. 2883, to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System. **Page H9044**

District of Columbia Appropriations Conference Report: The House agreed to the conference report on H.R. 2944, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002 by a yea-and-nay vote of 302 yeas to 84 nays, Roll No. 482. Earlier agreed that it be in order to consider the conference report; that all points of order against it and against its consideration be waived; that it be considered as read; and that H. Res. 307, a rule waiving points of order against the conference report be laid on the table.

Pages H9045–53

Medal of Valor Review Board: Read a letter from the Minority Leader wherein he announced his appointment of Mr. Oliver ''Glenn'' Boyer of Hillsboro, Missouri and Mr. Richard ''Smokey'' Dyer of Kansas City, Missouri to the Medal of Valor Review Board. **Page H9054**

Legislative Program: Representative Goss announced the Legislative Program for the week of December 10. **Page H9053**

Meeting Hour—Monday, Dec. 10: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, Dec. 10 in pro forma session. Page H9054

Meeting Hour—Tuesday, Dec. 11: Agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, Dec. 11 for morning hour debate. Page H9054

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Dec. 12. Page H9054

Senate Message: Message received from the Senate appears on page H8951.

Referral: S. Con. Res. 88 was held at the desk.

Quorum Calls—Votes: Five yea-and-nay votes and two recorded votes developed during the proceedings of the House today and appear on pages H8953, H8970–71, H8971–72, H8981, H9043–44, H9044, and H9052–53. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 6:15 p.m.

Committee Meetings

FAIRNESS IN ANTITRUST IN NATIONAL SPORTS (FANS) ACT

Committee on the Judiciary: Held a hearing on H.R. 3288, Fairness in Antitrust in National Sports (FANS) Act of 2001. Testimony was heard from Jesse Ventura, Governor, State of Minnesota; Allan "Bud" Selig, Commissioner, Major League Baseball; Jerry Bell, President, Minnesota Twins; and Steven Fehr, Counsel, Major League Baseball Players Association.

SETTLEMENT—U.S. GOVERNMENT AND NEXTWAVE

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law and the Subcommittee on Courts, the Internet, and Intellectual Property held a joint hearing on the Settlement Agreement by and among the United States of America, the FCC, NextWave Telecom, Inc., and certain affiliates, and Participating Auction 35 Winning Bidders. Testimony was heard from Jay S, Bybee, Assistant Attorney General, Office of Legal Counsel, Department of Justice; John A. Rogovin, Deputy General Counsel, FCC; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans approved for full Committee action the following measures: H. Con. Res. 275, to amend the National Wildlife Refuge System Administration Act of 1966 to authorize the Secretary of the Interior to provide for maintenance and repair of buildings and properties located on lands in the National Wildlife Refuge System of lessees of such facilities; H.R. 1370, amended, to amend the National Wildlife System Administration Act of 1966 to authorize the Secretary of the Interior to provide for maintenance and repair of buildings and properties located on lands in the National Wildlife Refuge System by lessees of such facilities; and H.R. 3389, amended, to reauthorize the National Sea Grant College Program Act.

MISCELLANEOUS MEASURES

Committee on Science: Ordered reported the following bills: H.R. 3394, Cyber Security Research and Development Act; and H.R. 3400, amended, Networking and Information Technology Research Act.

SBA'S ASSISTANCE SINCE TERRORISTS ATTACKS

Committee on Small Business: Held a hearing on the SBA's efforts to provide assistance to those directly and indirectly impacted by the terrorist attacks of September 11, 2001, upon the World Trade Center in New York City and the Pentagon in Arlington, Virginia. Testimony was heard from Representatives Nadler and Moran of Virginia; the following officials of the SBA: Hector Barreto, Administrator; and James L. King, State Director, Small Business Development Centers, State of New York; and public witnesses.

ECONOMIC STIMULUS PROPOSALS

Committee on Small Business: Subcommittee on Tax, Finance, and Exports held a hearing on a number of economic stimulus proposals, and their possible impacts on the nation's economy. Testimony was heard from public witnesses.

PORT SECURITY

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on Port Security. Testimony was heard from the following officials of the Department of Transportation: Norman Mineta, Secretary; and Adm. James M. Loy, USCG, Commandant, U.S. Coast Guard.

COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 7, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Commerce, Science, and Transportation: to hold hearings on the nomination of Sean O'Keefe, of New York, to be Administrator of the National Aeronautics and Space Administration, 9:30 a.m., SR–253.

House

Committee on Government Reform, Subcommittee on the District of Columbia, hearing on the District of Columbia School Reform Act of 1995-Blue Print for Education Reform in the District of Columbia, 10 a.m., 2154 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Checked Baggage Screening Systems-Planning for the December 31, 2002 Deadline, 9:30 a.m., 2167 Rayburn.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment-unemployment situation for November, focusing on payroll employment figures, 9:30 a.m., 1334 Longworth Building.

Next Meeting of the SENATE

9:30 a.m., Friday, December 7

Senate Chamber

Program for Friday: Senate will consider the conference report on H.R. 2944, District of Columbia Appropriations Act, with a vote on adoption to occur thereon.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, December 10

House Chamber

Program for Monday: Pro forma session.

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